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BUSHBY'S
MANUAL OF THE PRACTICE
OF
ELECTIONS
—
FIFTH EDITION
BY
HARDCASTLE





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A MANUAL
OF THE
PRACTICE OF ELECTIONS.

Just ready,

SECOND EDITION OF

THE LAW AND PRACTICE OF
ELECTION PETITIONS.

WITH

THE PARLIAMENTARY ELECTIONS ACT, 1868,
AND THE RULES FOR TRIALS OF CONTROVERTED ELECTIONS.

BY HENRY HARDCASTLE.

*** The above Work is printed uniform with Bushby's Election Law Manual, and may be had as a separate book, or bound up with this volume.*

BUSHBY'S MANUAL
OF THE
PRACTICE OF ELECTIONS
FOR
THE UNITED KINGDOM;

WITH AN APPENDIX OF STATUTES, AND OF THE
RULES OF PROCEDURE.

FIFTH EDITION.

BY
HENRY HARDCASTLE,
OF THE INNER TEMPLE, BARRISTER-AT-LAW.



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PREFACE

TO THE FIFTH EDITION.

SINCE the publication of the fourth edition of this work many alterations have taken place as to the law of parliamentary elections. By the Ballot Act, 1872, the procedure for the three Kingdoms was to a great extent assimilated; but many minor differences still remain. These differences are carefully explained in this edition. Much light has been thrown upon the law as to corrupt practices and agency by the decisions of the election judges in the petitions which have been heard under the Parliamentary Elections Act, 1868. It has therefore been necessary to re-write, to a great extent, the last chapter in the book. It is hoped that this chapter will be found to contain a correct summary of the law on this subject. The Appendix of Statutes has been much enlarged, and contains, as it now stands, *all* the statutes which relate to the procedure at an election, whether in England, Scotland, or Ireland.

TEMPLE, *Mar. 24th*, 1880.

CONTENTS.

	PAGE
TABLE OF CASES CITED	xi
CHAPTER I.	
PRELIMINARIES TO WRIT :—On a general election—On a vacancy	1
CHAPTER II.	
THE WRIT : How directed—How forwarded—Notice to War Office	10
CHAPTER III.	
PREPARATIONS FOR ELECTION : In counties—In boroughs—In Scotch counties—In Scotch burghs—In Irish counties—In Irish boroughs	19
CHAPTER IV.	
PROCEEDINGS AT AND AFTER ELECTION : Nomination Day—The Poll—The Return—Election Expenses	64
CHAPTER V.	
ELECTIONS AT UNIVERSITIES	120
CHAPTER VI.	
AVOIDANCE OF ELECTIONS : Bribery—Treating—Undue Influence—Irregularities in conduct of Election	128
APPENDIX.*	
3 Edw. 1, c. 5	i
7 & 8 Will. 3, c. 7, ss. 1-6	i
7 & 8 Will. 3, c. 25, ss. 1, 2, 6	iii
3 Geo. 1, c. 15, ss. 8, 11	iii
24 Geo. 3, c. 26, ss. 2-5, sch.	iv

* All the statutes referred to in the text, which relate to procedure at any election, whether held in England, Scotland, or Ireland, are given in this Appendix.

	PAGE
25 Geo. 3, c. 84, ss. 1-3	vi
33 Geo. 3, c. 64	vi
39 & 40 Geo. 3, c. 67, s. 2	vii
52 Geo. 3, c. 144, ss. 1-3	vii
53 Geo. 3, c. 89, ss. 1-3, 6, 7	ix
60 Geo. 3 & 1 Geo. 4, c. 11, ss. 4, 5, 22, 24-26, 36	xi
1 & 2 Geo. 4, c. 58, ss. 1-3, 5, 6, 8, schs. A., B.	xii
4 Geo. 4, c. 55, ss. 33, 63, 66, 67, 71, 73, 75, 82	xv
2 Will. 4, c. 45, ss. 11-14, 61, 64, 66, 68, 70, 71, 75-79	xvii
2 & 3 Will. 4, c. 64, s. 34	xxiii
2 & 3 Will. 4, c. 65, ss. 27-31, 34, 36, 38, 40, 42	xxiv
2 & 3 Will. 4, c. 88, s. 55	xxix
5 & 6 Will. 4, c. 36, ss. 2, 7, 9	xxix
5 & 6 Will. 4, c. 76, s. 57	xxx
5 & 6 Will. 4, c. 78, ss. 3-5, 11	xxxi
2 & 3 Vict., c. 59, s. 2	xxxii
3 & 4 Vict., c. 108, s. 84	xxxii
6 Vict., c. 18, ss. 81, 82, 85-90, 92, 93, 97, 101	xxxii
12 & 13 Vict., c. 109, s. 14	xxxviii
13 & 14 Vict., c. 68, ss. 2, 5-9, 15, 17, 18, 19, 21	xxxviii
13 & 14 Vict., c. 69, ss. 88-97	xlili
15 & 16 Vict., c. 23, s. 1	xlvi
16 Vict., c. 15, s. 2	xlvi
16 Vict., c. 28, ss. 2-9	xlvi
16 & 17 Vict., c. 68, ss. 1, 4-6	i
17 & 18 Vict., c. 57	li
17 & 18 Vict., c. 102, ss. 2-10, 12-14, 23, 33, 35-39	li
21 & 22 Vict., c. 87, ss. 1, 3	lvii
21 & 22 Vict., c. 110, ss. 1-6, sch.	lviii
24 & 25 Vict., c. 53, ss. 1-6, sch.	lix
24 & 25 Vict., c. 83, s. 45, sch. D.	lxii
25 & 26 Vict., c. 62, ss. 4, 6, 7	lxiii
25 & 26 Vict., c. 92, ss. 3, 4	lxiv
26 Vict., c. 29, ss. 1-7, 9	lxv
30 & 31 Vict., c. 102, ss. 2, 9-11, 33, 34, 36, 37, 41-45, 47, 49, 50, 52, 57-59	lxviii
31 & 32 Vict., c. 48, ss. 7, 8, 24-26, 34, 37-41, 49, 51, sch. G.	lxxiii
31 & 32 Vict., c. 49, ss. 2, 8, 10-13	lxxviii
31 & 32 Vict., c. 58, ss. 13, 33	lxxx
31 & 32 Vict., c. 65, ss. 1-3	lxxx
32 & 33 Vict., c. 71, ss. 120-124	lxxxii
35 & 36 Vict., c. 33. (The Ballot Act, 1872)	lxxxii
Procedure at Elections	lxxxiv
Offences at Elections	lxxxv
Amendment of Law	lxxxvi
Duties of Returning Officers	lxxxviii
Miscellaneous	lxxxix
Application of Act to Scotland	xc
Application of Act to Ireland	xc

CONTENTS.

ix

	PAGE
35 & 36 Vict. c. 33. Municipal Elections	xcvi
Personation	xcviii
Rules for Parliamentary Elections	cii
Forms	cxvi
Writ	cxvi
Notice of Election	cxvii
Nomination paper	cxvii
Ballot Paper	cxix
Directions for Guidance of Voters in Voting	cxx
Statutory Declaration of Secrecy	cxx
Declaration of Inability to read	cxx
Acts repealed	cxix
England	cxix
Scotland	cxviii
Ireland	cxviii
33 Vict., c. 2	cxviii
(Irish Act) 35 Geo. 3, c. 29	cxviii
(Riot Act) 1 Geo. 1, st. 2, c. 5	cxviii
(Notice to War Office) 10 & 11 Vict., c. 21	cxliv
37 & 38 Vict., c. 81, s. 4	cxlv
38 & 39 Vict., c. 40 (Municipal Elections)	cxlvi
33 & 39 Vict., c. 84	cliv
41 Vict., c. 4	clxiii
41 & 42 Vict., c. 41	clxiii

TABLE OF CASES CITED.

	PAGE		PAGE
Allen v. Hearn, 1 T. R. 60 . . .	129	Bridgewater, 1 O. & H. 115 . . .	139,
Arundel, Glan. 71	82		141
Ashburton, W. & B. 1	155	Bristol, 2 O. & H. 29	136
Ashby v. White, 2 Ld. Raym. . .	116	Bristol, P. & K. 574	141
938	116	Bristol, C. & D. 72	81
Barnardiston v. Some, 2 Lev. . .	114	Brown v. Langley, Times News- paper, May 9, 1874	20
114	113		
Barnstable, 2 O. & H. 105	137, 140	Caernarvon, P. & K. 106	113
Belfast, 1 O. & H. 282	152, 157	Canterbury, K. & O. 323	88
Belfast, B. & Aust. 555	40	Carrickfergus, 1 O. & H. 267 . . .	150,
Belfast, F. & F. 603	93		163, 176
Bennett v. Brumfitt, L. R. 3 . . .	24	Cashel, 1 O. & H. 238	140, 148,
C. P. 31	133,		160
Beverley, 1 O. & H. 147	152, 155	Cirencester, 1 Peck, 466	130
Bewdley, 1 O. & H. 20	118, 137,	Clementson v. Mason, L. R. . .	10 C. P. 209
138, 140, 150, 158, 164, 171 . .	141,		36, 41, 74, 83
Blackburn, 1 O. & H. 200	168	Cook v. Luckett, 2 C. B. 648 . .	154
Bletchingley, Glanv. 39	132	Cooper v. Slade, 27 L. J. Q. B. .	449
Bolton, 2 O. & H. 141	74, 138,		144, 146, 147, 158
139, 140, 151, 173	153	Cork, K. & O. 406	93
Bodmin, 1 O. & H. 120	140, 144,	Cornwall, 10 Canada L. J. . .	319
	153		140
Booth v. Sunderland, 10 Cana- da L. J. 289	94	Coventry, 1 O. & H. 101	150, 152,
Boston, 2 O. & H. 166	141, 144,		156
152	130,	Coventry, 1 Peck, 96	135
Bradford, 1 O. & H. 33	133, 153, 162, 164	Coventry, 38 Com. J. 8	114
Bramber, Cliff. 174	132	Cricklade, 1 Dougl. 301	81
Brecon, 2 O. & H. 44	146, 150,	Cullen v. Morris, C. & D. 163 .	116
	152, 164		
Bridgewater, 1 Peck 102	135	Davies v. Lord Kennington, L. R. 9 C. P. 720	24, 33, 65,
			67, 68
		Deakin v. Drinkwater, L. R. 9 C. P. 626	92

	PAGE		PAGE
Derby, 2 P. R. & D. 106 . . .	145	Huntingtower v. Gardiner, 1	
Drogheda, 1 O. & H. 259	166, 170	B. & C. 297 . . .	180, 143
Drogheda, 2 O. & H. 203	26, 39,	Hurdle v. Waring, L. R. 9 C.	
	81, 174, 177	P. 435	112
Dublin, 1 O. & H. 273	130, 141	Inverness shire, K. & O. 300	110
Dudley, 2 O. & H. 122	171, 173	Ipswich, B. & Aust. 260	129
Durham, 2 O. & H. 135	118, 140	Ipswich, K. & O. 387	135, 141
	155		
Edwards v. Whitehurst, 5 H.		James v. Henderson, 30 L. T.	
& N. 131	142	N. S. 527	110
Etherington v. Wilson, L. R.		Jones v. Randall, Cowp. 39	129
20 Eq. 618	94		
Galway, I. R. 6 C. L. 464 . . .	92	Kidderminster, 2 O. & H. 177	150
Galway, 2 O. & H. 52	76, 92, 93,	Kingston, 11 Canada L. J. 24	148
	115, 134, 141, 166, 170, 171	Knarborough, 2 P. R. & D.	
Galway, 2 O. & H. 197	76	211	82
Galway Town, 1 O. & H. 306	166	Knarborough, 2 Peck, 380 .	114
Gloucester, 2 O. & H. 62	35, 41,	Knarborough, Com. J. 852	115
	60, 96, 155, 168		
Gloucester City, 14 Com. J. 88	43	Launceston, 2 O. & H. 133 . .	144
Gosling v. Veley, 7 Q. B. 439	94	Leicestershire, 18 Com. J. 21.	114
Grant v. Guinness, 25 L. J.		Lichfield, 1 O. & H. 29	128, 133,
C. P. 70	116, 117		137, 162, 167, 176
Great Grimsby, Cliff. 173	132	Limerick, P. & K. 373 . . .	80
Greenock, 1 O. & H. 249	55, 136	Limerick, 1 O. & H. 262 . .	141
Gribbin v. Kirker, Ir. Rep. 7		Limpus v. Gen. Omnibus Com-	
C. L. 30	81	pany, 1 H. & C. 526 . . .	137
		London, 24 Canada C. L. R.	
Hackney, 2 O. & H. 77	34, 78, 81,	475	159
	99, 114, 173	Londonderry, 1 O. & H. 273	
Harding v. Stokes, 2 M. & W.			139, 144, 155, 166
235	130	Longford, 2 O. & H. 15 . .	22, 44
Hargreaves v. Simpson, L. R.		Lyme Regis, B. & Aust. 554 .	144
4 Q. B. D. 403	165	Lynn, 1 O. & H. 208	143
Harman v. Tappenden, 1 East,			
562	116	Malcolm v. Parry, L. R. 9 C.	
Harwich, 1 P. R. & D. 314 . .	80	P. 623	109, 136, 141, 142,
Hastings, 1 O. & H. 218 . . .	152		160, 166, 172
Henslow v. Fawcett, 3 A. & E.		Mallow, 2 O. & H. 22 . . .	129, 164
51	130	Mather v. Brown, L. R. 1 C. P.	
Hereford, 1 O. & H. 295 . . .	163	D. 596	66
Horsham, 1 P. R. & D. 253 . .	141	Mayo, 2 O. & H. 194	60, 65, 67,
Horsham, 3 O. & H.	147, 150,		72, 177
	174, 177	Milnes v. Bale, L. R. 10 C. P.	
Howes v. Turner, L. R. 1 C. P.		591	158
D. 670	66, 67, 69	Monks v. Jackson, L. R. 1 C.	
Hughes v. Marshall, 2 C. & J.		P. D. 683	67
118	130	Monmouth, K. & O. 416 . .	129

TABLE OF CASES CITED.

xiii

PAGE	PAGE
Moody's case (New Sarum) P. & K. 255 . . . 88	R. v. Lopez, Ann. Reg. 1819, p. 210 . . . 131
Morris v. Burdett, 1 Camp. 219 . . . 35, 142	R. v. Pitt, 3 Burr. 1338 128, 131, 132
Muntz v. Sturge, 8 M. & W. 302 . . . 33, 34	R. v. Strachan, L. R. 7 Q. B. 465 . . . 125
Niagara, 10 Canada L. J. 319 . . . 140, 143	R. v. Thwaites, 1 E. & B. 704 . . . 88
Newry, P. & K. 151 . . . 141	R. v. Unkles, Ir. Rep. 8 C. L. 53 . . . 82
Northallerton, 1 O. & H. 168 . . . 168, 172	R. v. Vaughan, 4 Burr. 2500 . . . 129
Northcote v. Pulsford, L. R. 10 C. P. 484 . . . 30, 64, 66, 85	Renfrew, 2 O. & H. 213 . . . 100
North Durham, 2 O. & H. 160 . . . 167, 169, 170	Ribbans v. Crickett, 1 B. & P. 264 . . . 152
North Norfolk case, 1 O. & H. 238 . . . 75, 141, 143, 153, 163, 164, 165, 168, 169	Richardson v. Chasen, 10 Q. B. 756 . . . 117
Norwich case, 2 O. & H. 40 . . . 76, 137, 141	Richardson v. Webster, 3 C. & P. 128 . . . 152
Norwich, 1 O. & H. 11 . . . 92, 136, 137, 138	Roxburgh, Falc. & F. 503 . . . 81
Norwich, 2 Lud. 455 . . . 134	Salford, 1 O. & H. 141 . . . 139, 143, 167, 173, 174
Norwich, P. & K. 565 . . . 148	Seaford, 3 Lud. 112 . . . 135
Nottingham, B. & Arn. 165 . . . 145	Shaw v. Thompson, L. R. 3 Ch. D. 233 . . . 173
Nottingham, 1 O. & H. 246 . . . 167	Shrewsbury, 2 O. & H. 36 . . . 139
Oldham, 1 O. & H. 164 . . . 154	Sligo, 99 Hans. 1289 . . . 6
Pembrokeshire, 11 Com. J. 338 . . . 43	Sligo, W. & D. 227 . . . 88
Penryn case, 1 O. & H. 131 . . . 116, 117, 155	Sligo, 1 O. & H. 302 . . . 129
Pickering v. James, L. R. 8 C. P. 489 . . . 36, 37, 40, 85, 114, 116	Sligo, 1 P. R. & D. 211 . . . 24
Pontefract, Glan. 141 . . . 81	Soper v. Mayor of Basingstoke, L. R. 2 C. P. D. 444 . . . 66
Poole, 2 O. & H. 126 . . . 164	South Huron, 4 Canada Com. Law Rep. 488 . . . 152
Prideaux v. Morris, 7 Mod. 14 . . . 113	South Renfrew, 11 Canada L. J. N. S. 47 . . . 68
Pryce v. Belcher, 4 C. B. 866 . . . 88	Stafford, 1 O. & H. 231 . . . 143, 170
R. v. Feardsall, L. R. 1 Q. B. D. 462 . . . 109	Staleybridge, 1 O. & H. 70 . . . 138, 140, 141, 153, 164
R. v. Bridgenorth, 10 A. & E. 66 . . . 154	Stannanought v. Hazeldine, L. R. 4 C. P. D. 195 . . . 83
R. v. Hague, 4 B. & S. 720 . . . 95	Stockbridge, Cliff. 162 . . . 134
R. v. Hawkins, 10 East, 211 . . . 92	Stowe v. Jolliffe, L. R. 9 C. P. 454 . . . 38, 84, 87, 105, 109, 110
R. v. Lofthouse, L. R. 1 Q. B. 433 . . . 175	Stroud, 2 O. & H. 186 . . . 129, 150, 152, 153, 177
	Stroud, 3 O. & H. 7 . . . 140
	Sudbury, 2 Dougl. 137 . . . 130

	PAGE		PAGE
Tamworth, 1 O. & H. 82	140,	Westbury, 1 Com. J. 88	132
	153, 155, 176	Westbury, 1 O. & H. 49	137, 168
Taunton, 1 O. & H. 184	137,	Westbury, 1 O. & H. 54	140
	139, 141	Westminster, 1 O. & H. 95	137,
Taunton, 2 O. & H. 73	138, 140		139, 140, 141, 153
Thetford, 18 Com. J. 145	134	Wigan, B. & Arn. 790	110
Tipperary, 3 O & H. 19	2, 92,	Wigan, 1 O. & H. 189	141, 155,
	94, 115		167
Trench v. Nolan, Ir. Rep. 6		Wigtown, 2 O. & H. 216	86, 85,
C. L. 464	92, 94		86, 101, 102, 103
Tyrone case, Ir. Rep. 7 C. L.		Windsor, 1 O. & H. 3	138, 140,
190	109		152, 166
Wakefield, 2 O. & H. 102	140, 141	Windsor, K. & O. 194	129
Wakefield, B. & A. 271	12, 16, 93	Windsor, 2 O. & H. 89	141, 160,
Wallingford, 1 O. & H. 59	164, 165		168, 170
Walton's case, Leigh & Cave,		Windsor, 3 Lud. 194	135
298	169	Woodward v. Sarsons, L. R.	
Wareham, W. & D. 90	172	10 C. P. 751	81, 85, 86, 101,
Waterford, B. & Aust. 616	108		102, 173, 174, 175, 177
Waterford, 2 O. & H. 2, 25	140,	Worcester, K. & O. 254	129
	142, 143, 144	Worcester, C. & D. 173	154
Wathen v. Saunders, 2 Camp.		Youghal, 1 O. & H. 249	118, 142,
644	35		152, 153, 156
Waygood v. James, L. R. 4		Youghal, F. & F. 404	129, 135
C. P. 369	5		

A MANUAL

OF

PARLIAMENTARY ELECTIONS.

CHAPTER I.

PRELIMINARIES TO WRIT: ON A GENERAL ELECTION: ON A VACANCY.

On a General Election.] The first requisite of a Parliamentary election is the writ, which, upon a general election is issued out of Chancery by advice of the Privy Council.¹ For English and Scotch elections the writs go from the Petty Bag Office by warrant of the Lord Chancellor.² For Irish elections they are issued from the office of the Clerk of the Crown and Hanaper in Dublin by order of the Lord Chancellor of Ireland.³

On a Vacancy.] In every other election, a new writ, as it is called, is issued from the office of the Clerk of the Crown in Chancery, under the Speaker's warrant, and, if the House be sitting, by its own order.⁴ Certain preliminaries are, however, requisite, which will be noticed in the present chapter.

A new writ may be rendered necessary by any of the following causes:—1, by a death vacancy; 2, by the elevation, or succession, of a member to the peerage; 3, by his accepting an office of profit

Occasions
for the issue
of new writs.

¹ May's Parl. Pract. ed. 7, p. 44.

² 12 & 13 Vict. c. 109, s. 14, App. xxxviii.

³ 39 & 40 Geo. III. c. 67, s. 2, App. vii.]

⁴ May's Parl. Pract. ed. 7, p. 625.

CHAP. I.

from the Crown; 4, by his accepting a merely formal office of profit, like the Chiltern Hundreds; 5, by his being disqualified when elected; 6, by his becoming bankrupt; 7, by his being returned for more than one constituency; 8, by his being unseated on petition; 9, by his expulsion. It may be convenient to consider the preliminaries to obtaining a new writ in each of the foregoing cases in the following order; first, during the sitting of the House; and, secondly, during the recess.

New writs, how obtained during the sitting of the House.

Every new writ required during the sitting of the House is applied for by a motion regularly made and seconded; and such motions take precedence of other business, by reason of their relation to privilege of Parliament.¹

When moved:

The time for making them is determined by the occasion of the vacancy.

On a vacancy by death;

On a death vacancy, the motion may be made at once, but if the death occurs within 21 days of the return, it is usual to wait until the expiration of the 21 days in order to give an opportunity to present a petition and claim the seat.²

By peerage;

When a member has been *created* a peer, the motion may be made as soon as he has kissed hands; but it is sometimes deferred until the patent of his peerage is made out, or the *recipi* is indorsed. Thus, Lord Eddisbury sat until the 15th May, 1848, though his creation appeared in the *Gazette* six days previously. When, however, a member *succeeds* to a peerage, the motion is usually made so soon as the death of his ancestor is known.³

By accepting office from the Crown.

If a vacancy is occasioned by the acceptance of an office of profit from the Crown, the motion is

¹ May's Parl. Pract. ed. 7, p. 627. On Feb. 8, 1875, Mr. Dyke moved that no new writ should be issued without two days' notice, such motion to take precedence of other business. *Times*, Feb. 9, 1875.

² See *Tipperary Case*, 3 O. & H. 19.

³ May's Parl. Pract. ed. 7, p. 626.

usually made as soon as the appointee has kissed hands, without waiting for the formal completion of his appointment.¹ The motion may be made, directly the assent of the Treasury is given, whenever a member² has applied for, and obtained, one of the sinecures, known as the stewardship or bailiffship of her Majesty's three Chiltern Hundreds of Stoke, Desborough, and Bonenham, or of the Manors of East Hendred, Northstead, or Hempholme, or the escheatorship of Munster.

CHAP. I.

By taking
the Chiltern
Hundreds ;

Three instances have occurred in which gentlemen returned to Parliament have vacated their seats by the expedient of themselves informing the Speaker by letter that they were disqualified at the time of their election. In the first case, where the disqualification consisted in a lack of the requisite estate, the letter was read to the House by the Speaker on the 22nd November, 1826; time was then given for the expiration of a fortnight, so as to exhaust the prescribed period for presenting election petitions;³ and two days afterwards, viz., on the 8th December, the letter was again read, and the Speaker was directed to issue his warrant for a new writ. In the second case, where the

By disquali-
fication at
the time of
election :

¹ But on Dec. 16, 1868, Mr. Ayrton, on behalf of the Government, stated that no new writ would be moved for in cases where a petition was pending which claimed the seat. *Times*, Dec. 17, 1868, and May's Parl. Pract. ed. 7, p. 625.

² The appointment is resigned as soon as the vacancy has been effected; but, though granted as a matter of course on ordinary occasions, has sometimes been refused (Mr. Goulburn's letter to Viscount Chelsea, Parl. Pap. 1842, 544, cited May's Parl. Pract. ed. 7, p. 637). In the first debate on the motion for Mr. James Sadleir's expulsion, the Premier (Lord Palmerston) engaged, on the part of Government, that no application by the offending member for the Chiltern Hundreds should be granted (183 Hans. 1407).

³ Twenty-one days after the return is now the period for the presentation of election petitions; unless corruption by, or on behalf of, a member is alleged to have taken place *since* the return; in which case the petition may be presented within twenty-eight days after the date of the offence so alleged; 31 & 32 Vict. c. 125, s. 6.

CHAP. I. applicant declared his disqualification to have been that he was a party to a contract with the Queen's Stationery Office, his letter was read, and the motion made, at the end of a fortnight, when a similar direction was given.¹ In the third case, where the disqualification attached to the person elected, owing to his having, at the time of his election, held shares in a steam vessel, the owners of which were under an agreement with the Postmaster-General to carry mails, his letter was read on the re-assembling of Parliament, and a motion for a new writ made forthwith, as the time for presenting petitions had already elapsed.²

A new writ may also be rendered necessary if the House of Commons resolve that a person who has been returned as a member is incapable of being elected. Thus on Feb. 10, 1870, the House resolved, on the motion of the Prime Minister, that, "Jeremiah O'Donovan Rossa, returned as a knight of the shire for the County Tipperary, having been adjudged guilty of felony, and sentenced to penal servitude for life, and being now imprisoned under such sentence, has become and continues inca-

¹ May's Parl. Pract. ed. 7, p. 639.

² The following is a report of what occurred as given in the *Times*, Mar. 20, 1874 :—

A DISQUALIFIED MEMBER.

The Speaker further notified that he had received a communication from Mr. J. Ramsay, who had been returned for the Falkirk Burghs, explaining that since the election he had been made aware of a disqualification which seemed to have attached to him owing to his having at the time of his election held shares in a steam vessel, the owners of which were under an agreement with the Postmaster-General to carry mails to and from the Island of Islay. (Laughter.) The value of these shares to him was £9 7s. 6d. (renewed laughter), and though he had been released from his position as a shareholder, and now had no interest in the steamer, yet he was advised that, having been disqualified at the time of the election, he was precluded from taking a seat in the House.

On the motion of Mr. Adam, a new writ then was issued for the election of a member for the Falkirk Burghs.

pable of being elected or returned as a member of this House," whereupon a new writ was ordered to issue for the election of a knight of the shire for the county Tipperary.¹

CHAP. I.
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In the event of a member becoming bankrupt, if the adjudication is not annulled within twelve months the same shall be certified to the Speaker, and thereupon the seat of such member shall be vacant, and a new writ for electing another member in his room shall be issued.²

By becoming bankrupt:

When a member, before taking his seat, is returned for two or more constituencies, he must elect to sit for one of them within three weeks after the returns; provided that no petition has, in the meanwhile, been presented against him. If either return has been petitioned against, he cannot make his choice until the petition is dismissed. For, supposing the petition to be well founded, it might happen, if he were allowed to abandon the

By being elected for more than one place:

¹ It may be here observed that, although it is enacted by s. 50 of the Parl. El. Act, 1868, that "from and after the next dissolution of parliament no election or return to parliament shall be questioned except in accordance with the provisions of this act," this enactment does not take away the power of the House of Commons to inquire into or determine upon the eligibility of any person returned as a member. This appears both from O'Donovan Rossa's case (mentioned above) and also from the cases of Sir Sydney Waterlow, who was unseated by a select committee of the House in April, 1869, on the ground that he was a government contractor at the time of his election, and of Sir Bryan O'Loughlen who was unseated by a select committee of the House in April, 1879, for having accepted the office of Attorney-General of Victoria, which office the committee held to be "an office of profit under the Crown, within the meaning of the statutes in that behalf." It appears probable also, that if after the trial of a petition under the Parl. El. Act there was reason to suppose that the judgment had been obtained by fraud or collusion between the parties, "the House of Commons might institute a second investigation of the matter under its general jurisdiction over the return of members," per Willes, J., in *Waygood v. James*, L. R. 4 C. P. 369.

² 52 Geo. III. c. 144, s. 2, App. viii.; this act is repealed as to England by 32 & 33 Vict. c. 83, s. 20, but similar provisions are enacted by the Bankruptcy Act, 1869, ss. 120—124, App. lxxxii.

CHAP. I. — seat petitioned against, instead of waiting to be ejected from it, that he would be the means of nullifying the right of the candidate who stood next him on the poll to be declared duly elected in his stead. In accordance with this rule, the late Mr. O'Connell, who had been chosen for the counties of Cork and Meath, and whose return for the former county had been petitioned against, waited until the petition was dismissed, and then signified his intention to sit for Cork, by letter to the Speaker.¹

By being
unseated on
petition :

When a member is unseated on petition, no motion for a new writ may be made, unless previous notice of such motion has been given in the votes ;² and when such a notice is dropped, it must be renewed like other dropped notices.³ It may be observed, that under all the former Acts⁴ regulating election petitions (except the Grenville Act, 10 Geo. III., c. 16), it was obligatory for the committee to determine whether a new writ should issue or not. This matter is now left entirely to the discretion of the House of Commons, who, upon receipt of the certificate and report of the Judge, are to give the necessary directions for confirming or altering the return, or for issuing a new writ, or for carrying the determination into execution as circumstances may require.⁵

By expulsion.

When the House resorts to the extreme measure of expelling a member, the seat is thereby vacated, and a new writ is immediately issued.⁶

New writs,
how obtained
during
the recess :

Such are the regulations on this head, when the House is sitting. There are only four cases in which warrants for writs can be issued during

¹ May's Parl. Pract. ed. 7, p. 643.

² Resolution of [April 5, 1848 ; May's Parl. Pract. ed. 7, 627.

³ *Sligo*, June 28, 1848 ; 99 Hans. 1289.

⁴ These Acts were 9 Geo. IV. c. 22, 2 & 3 Vict. c. 38, 4 & 5 Vict. c. 58, 7 & 8 Vict. c. 103, and 11 & 12 Vict. c. 98.

⁵ Parl. El. Act. s. 13.

⁶ May's Parl. Pract. ed. 7, p. 60.

the recess: namely—(1.) on the death of a member; (2.) on a member becoming a peer of Great Britain; (3.) on a member accepting an office from the Crown; (4.) on a member becoming bankrupt.

CHAP. I.
—

If the vacancy is due to the first, or second, of the above causes—and if the case fall not within any of the three exceptions about to be noticed—a certificate of the late member's death, or of his summons to the Upper House, is drawn up in the form provided in the Schedule of 24 Geo. III. c. 26,¹ and, after having been signed by two members of the Commons, is delivered to the Speaker; who forthwith causes a notice thereof to be inserted in the *London Gazette*, and issues his warrant for a new writ not less than fourteen days after such insertion.² The exceptions are:—(1.) When the writ, by virtue of which the member deceased, or become a peer, was elected, has not been brought into the office of the Clerk of the Crown fifteen days, at the least, before the end of the last sitting; (2.) where there is not time for the issue of a new writ, before the day when the House next meets for the despatch of business; (3.) where a petition was depending at the last prorogation or adjournment against the election or return of the member whose seat has been vacated. If the case falls within any or either of these exceptions, the warrant cannot be issued for the writ except on regular motion when the House meets.³

When, during the recess, a member accepts any office which, either by statute or any previous determination of the House vacates his seat (except the Chiltern Hundreds, or the stewardship or bailiffship of East Hendred Northstead, or Hempholme, or the escheatorship of Munster),⁴ he must forthwith notify such acceptance to the

By acceptance of office:

¹ App. v.

² 24 Geo. III. c. 26, s. 3, App. iv.

³ *Ib.* s. 4. See May's Parl. Pract. ed. 7, 629.

⁴ 21 & 22 Vict. c. 110, s. 4, App. lix.

CHAP. I. Speaker, either by writing under his hand, or by countersigning a statutory certificate¹ under the hands of two members of the House, to be sent by them to the Speaker, together with a copy of any of the Queen's gazettes in which the appointment appears. Thereupon, if the Speaker considers the appointment to vacate the seat, he must, after giving fourteen days' notice in the *London Gazette* of his having received such certificate and notification, issue his warrant to the Clerk of the Crown for a new writ. But if the Speaker entertains any doubt, he may, instead of issuing his warrant, reserve the question for the decision of the House.²

By bankruptcy.

The preliminaries to issuing a warrant for a new writ during the recess, on account of a vacancy by bankruptcy, are as follows:—The fact of the member having become bankrupt is certified in the same manner, and under the same statute, as when such an event occurs during the sitting of the House; ³ whereupon the Speaker is required to have notice thereof inserted in the *London Gazette*, and to issue his warrant for a new writ fourteen days after such insertion; provided that there be time before the next meeting of the house for the expiration of the above period, and for the issue of the warrant. Otherwise, no step can be taken till after the recess, when the motion must be made in the regular way.⁴

Superseas
if writ
issued by
mistake.

Such are the preliminaries to the issue of writs, both during the sittings of the House, and during the recess. If, through misinformation as to a vacancy having arisen, or from any other cause, a writ has been improperly issued or directed, the House will order the Speaker to issue his warrant

¹ See form of certificate, App. lix.

² 21 & 22 Vict. c. 110, s. 3, App. lviii.

³ *Ante*, p. 5.

⁴ 52 Geo. III. c. 144, as to Scotland and Ireland, App. vii. and 32 & 33 Vict. c. 71, s. 124, as to England, App. lxxxii.

to the Clerk of the Crown, to make out a *super-sedeas* to the writ.¹ CHAP. I.

It only remains to be said that in the event of the death of the Speaker, or his absence, or if his seat becomes vacant, certain members of the House (not more than seven, nor less than three), whom at the beginning of every Parliament, and within a convenient time after his own accession to office, or upon their number being reduced below the number of three, he appoints for the purpose, are authorised² to exercise his powers.

¹ May's Parl. Pract. ed. 7, p. 628.

² By 24 Geo. III. c. 26, s. 5, App. v. in the event of members dying or becoming peers, by 21 & 22 Vict. c. 110, s. 5, App. lix. in the event of members accepting offices of profit, and by 32 & 33 Vict. c. 71, s. 124, App. lxxxii., in the event of a member becoming bankrupt.

The case of the Speaker being dead, absent, or of his seat being vacant.

CHAPTER II.

THE WRIT : HOW DIRECTED : HOW FORWARDED : NOTICE TO WAR OFFICE.

On a general
election ;

The Writ.] By the Ballot Act, 1872, Sch. II., the ancient form of writ is altered, and a new and shorter¹ form substituted. When a general election takes place, the writ appoints a day on which Parliament is to meet, specifies the number of representatives to be elected, and concludes by enjoining the officer to whom it is addressed to cause the names of the member or members when elected to be certified to the Crown in Chancery without delay.² A new writ is much to the same effect ; except that it omits the preamble and explains, in addition, how the vacancy occurred which is to be supplied.³

In other
cases.

Writ, how directed.] The person to whom the

¹ It may be observed that the words "of the most fit and discreet," which occurred in the old form of writ, and were relied on by Lord Coke (4 Inst. 47, 48) as his reason for holding that a man attainted of treason or felony could not be elected, are now omitted. Also what was called the "nolumus" clause is omitted in this new form of writ. That clause was as follows : "We are willing nevertheless that neither you or any other sheriff of our said United Kingdom be in anywise elected." As to the history and effect of this clause, see Rogers on Elections, ed. 12, p. 232, note (y).

² By 15 & 16 Vict. c. 23, App. xlvii. whenever a new parliament is summoned there are to be not less than thirty-five days between the date of the proclamation and the day appointed for the meeting thereof. By s. 15 of the Ballot Act, 1872, App. xc., the word "proclamation" is to be deemed to include a public notice given in pursuance of the Ballot Act. By the schedule to the Ballot Act, App. cxxviii., 31 & 32 Vict. c. 58, s. 11, which shortened the time to twenty-eight days, is repealed.

³ See *form*, App. cxvi.

writ is directed is the Sheriff or other Returning Officer.¹ CHAP. II.

We must therefore now consider the rules which determine who may be Returning Officer.² Returning Officer :

In counties, the Returning Officers have been from ancient times the Sheriffs.³ In counties :

In such cities, or towns, being counties of themselves, as are not provided for by the various statutory provisions which will presently be noticed, the Sheriffs of such cities or towns are generally, but not always, the Returning Officers.⁴ In cities, &c., which are counties of themselves, and not provided for by Statute :

In other boroughs or towns not so provided for, the office generally devolves on the principal functionary of the place, but may be found in the possession of a variety of persons ; such as stewards ; mayors ; bailiffs ; port-reeves ; constables ; and the like ; according to the customs of the place concerned.⁵ In other boroughs not so provided for.

The statutory provisions as to who is to act as Returning Officer in boroughs are as follows :—

In a large proportion of boroughs in England the Returning Officers have been specially designated by the Reform Act, 1832, and the Municipal In boroughs enumerated in Schedules C or D of Reform Act, 1832.

¹ See Ballot Act, 1872, sch. ii. *label or direction of writ*, App. cxvi. and Rule i. App. cii. Also as to England, 16 & 17 Vict. c. 68, s. 1, App. li. and 17 & 18 Vict. c. 57, App. lii. As to Scotland, 2 & 3 Will. IV. c. 65, s. 28, App. xxv. ; and as to Ireland, 25 & 26 Vict. c. 92, s. 3, App. lxiv.

² For definitions of this title, see 2 Will. IV. c. 45, s. 79, App. xxii. ; 6 Vict. c. 18, s. 101, App. xxxvii. There is no definition of this title in the Ballot Act, 1872, neither is there any alteration made by that act as to the person who is to perform the duties of returning officer.

³ In 4 Inst. 6, Lord Coke says ; “ For summoning of the commons a writ goeth out . . . to every sheriff of fifty-two counties of England and Wales for the choice and election of knights within every one of their counties respectively.” See also as to England, 16 & 17 Vict. c. 68, s. 1, App. l., and as to Scotland, 2 & 3 Will. IV. c. 65, s. 28, App. xxv. ; and May’s Parl. Pract., ed. 7, pp. 19–21.

⁴ Roe on Elections, I. 437.

⁵ *Id.*, 438a. In some places, lords, and even ladies, of manors have been the Returning Officers ; Heywood on Borough Elections, 54, 437.

CHAP. II.

Or where no
provision
made and
since incor-
porated :

Corporation Acts ; the general effect of which may thus be stated :—

For some of the boroughs named in Schedules C and D of the Reform Act, 1832, Returning Officers are therein expressly provided.¹

In any other borough named in those Schedules, and which has been incorporated since the passing of the Reform Act of 1832 by any royal charter authorising the election of a Mayor, or other chief municipal officer, such Mayor or other chief municipal officer for the time being acts as the Returning Officer for such borough.²

Or where no
provision
made and
not since in-
corporated :

And, as regards the rest of the boroughs named in those Schedules, the Act¹ provides that the Returning Officer shall be appointed by the Sheriff of the county, subject to the following rules :—The appointment must be made in March (except when made to fill up a vacancy occasioned by death or incapacity), by writing under the Sheriff's hand ; which writing must be delivered to the Clerk of the Peace of the County, and by him be filed and preserved among the records of his office. The qualification required by the Act is that the person appointed should be "a fit person resident in the borough." He must not be in holy orders, nor be a churchwarden, or overseer of the poor, nor can one who has been thus appointed assume either of the two latter functions during the period of his office. His appointment is to last till the ensuing March : so that he would appear to have no power of resigning at pleasure.³ But no person can be compelled to accept the appointment who has served before, or is qualified⁴ to be elected as a member of Parliament ; provided that, within a week of his receiving notice of such appointment, he makes

Qualifica-
tion of Re-
turning
Officers in
such
borough :

¹ 2 Will. IV. c. 45, s. 11, App. xvii.

² 5 & 6 Will. IV. c. 76, s. 57, App. xxx.

³ *Wakefield*, Bar. & Aust. 271 ; Rogers on Elections, ed. 12, p. 280.

⁴ This word "qualified" probably refers to the qualification of estate required by 1 & 2 Vict. c. 48, which is now repealed. As to this see Rogers on Elections, ed. 12, p. 279.

oath of such qualification before a Justice of the Peace, and forthwith notifies that he has done so to the Sheriff. If the Returning Officer dies, or becomes incapacitated, the Sheriff is to forthwith appoint (subject to the same rules, and for the unexpired residue of the year of office) a successor.¹

CHAP. II.

In every borough under the Municipal Corporations Act, other than cities, or towns, being counties of themselves, and other than the town of Berwick-upon-Tweed, the Mayor is Returning Officer; and if at any time when he is required to act as such, he is absent, or incapacitated, by death, or otherwise, the council of the borough must forthwith elect an alderman to act in his stead. If there are two mayors in the borough, the one to whom the writ is directed is to be Returning Officer.²

In boroughs under the Municipal Corporations Act,

In any borough named in Schedules B and C of 30 & 31 Vict. c. 102, which is, or includes, a municipal borough, the Mayor of such municipal borough is the Returning Officer; and in the other boroughs so named, the Returning Officer is to be appointed in the same way as if they were included among the boroughs named in Schedules C and D of 2 Will. IV. c. 45, for which no persons are mentioned in such Schedules as Returning Officers,³ provided that if any of these last-mentioned boroughs become municipal boroughs the Mayor shall become Returning Officer in that borough.⁴

In boroughs mentioned in Schedule B and C of Reform Act, 1867.

For the borough of Birkenhead the Sheriff of Cheshire is to appoint a fit person in accordance with the provisions of 2 Will. IV. c. 45, s. 11,⁵ and for the borough of Thirsk a Returning Officer is to be annually provided in accordance with the same provisions.⁶

For Birkenhead and Thirsk.

¹ 2 Will. IV. c. 45, s. 11, App. xvii.

² 5 & 6 Will. IV. c. 76, s. 57, App. xxx.

³ 30 & 31 Vict. c. 102, s. 47, App. lxxi.

⁴ 31 & 32 Vict. c. 58, s. 33, App. lxxx.

⁵ 24 & 25 Vict. c. 112, s. 10.

⁶ 31 & 32 Vict. c. 58, s. 27.

CHAP. II.

Returning
Officers in
Scotland.

In Scotland, writs for the election of members to serve for shires, or for any city, burgh, or town entitled to send a member or members for itself, shall be directed as heretofore to the Sheriff of the shire, and where the election is for a district of cities, burghs, or towns, a writ shall be directed to the Sheriff specified in Schedule L of the Scotch Reform Act, 1832.¹ It is specially enacted by the Scotch Reform Act, 1868, that for the Hawick burghs the writ is to be addressed to the Sheriff of Roxburghshire, to the Sheriff of the county of Peebles for the counties of Peebles and Selkirk, and to the Sheriffs of the counties enumerated in Schedule B to that Act for such counties.²

Statutory
Returning
Officer in
Ireland.

In Ireland, the Returning Officer for counties is the Sheriff. For boroughs the Mayor for the time being is Returning Officer, and if there is no Mayor, then the Sheriff of the county in which the whole or greater part of such borough shall be situate.³

Writ, how
directed
when the
post is
vacant ;

It has next to be considered how the writ is to be directed in those cases where it is ordinarily directed to the Returning Officer, but where, at the time of its issue, his post is vacant.

In an Eng-
lish county :

If this should happen in an English county, and the vacancy is occasioned by death, the Under, or Deputy, Sheriff, who is the person appointed by statute to fulfil *ad interim* the deceased Returning Officer's duties, would seem to be the proper person to whom to direct the writ.⁴ A vacancy from any other cause than death does not appear to be expressly provided for ; but the Crown might possibly be advised to solve the difficulty by wielding its often questioned, but never abandoned, prerogative of making a Pocket Sheriff to supply the vacancy.⁵

¹ 2 & 3 Will. IV. c. 65, s. 28, App. xxv.

² 31 & 32 Vict. c. 48, s. 24, App. lxxiii.

³ 3 & 4 Vict. c. 108, s. 84, App. xxxii.

⁴ 3 Geo. I. c. 15, s. 8, App. iii. And so, if the Sheriff is absent on militia service ; 2 & 3 Vict. c. 59, s. 2, App. xxxii.

⁵ Bacon Ab., Sheriff ; 1 Bl. Com. 340 ; 2 Steph. Com. 647.

As to a vacancy in the office of Returning Officer in an English city or borough, it is provided that, "in the absence" of the Returning Officer and of his Deputy, the writ is to be directed to the Sheriff of the county; and it is further enacted that, "in all cases whenever there shall be, either from temporary vacancy, or from some [*i.e. any*] other cause, no person duly qualified in any borough, city, or town, to perform the duties of a Returning Officer for the same, the Sheriff of the county in which such borough, city, or town, is situate, shall be charged with the execution of the said writ, and shall execute the same and in all respects perform the duties of, and incidental to, the office of Returning Officer: Provided always, that it shall not be lawful for the said Sheriff to receive or execute the writ, except when there shall be no person within the said borough, or city, or town, legally qualified and competent as Returning Officer to execute the same."¹

CHAP. II.

In an English city or borough:

In Scotland, if any sheriff to whom any writ for election is directed shall be incapacitated from acting by the sickness or unavoidable absence of the Sheriff, one of his ordinary substitutes may act in his stead, provided he hold a substitution especially authorizing him to do so,² and in the event of no such special substitution, his ordinary substitute at the place shall act in his room.³ But if the office of Sheriff be vacant by death or resignation, the ordinary substitute at the head-burgh of the shire appointed by the former Sheriff shall act until a successor to such former Sheriff shall be appointed and be in a capacity to act.³

In Scotch constituencies:

In an Irish corporate borough, if the mayor is dead, absent, or otherwise incapable of acting, the council of such borough are to elect one of the

In an Irish constituency

¹ 17 & 18 Vict. c. 57, App. li. See also 2 Will. IV. c. 45, s. 11, App. xvii. and 5 & 6 Will. IV. c. 76, s. 57, App. xxx.

² 2 & 3 Will. IV. c. 65, s. 42, App. xxviii.

³ 5 & 6 Will. IV. c. 78, s. 11, App. xxxii.

CHAP. II. — aldermen to be returning officer.¹ In no other Irish constituency does a vacancy in the post of Returning Officer occasion any difficulty on this head, as the Sheriff in such case is the person to whom the writ is directed, and who is charged with its execution.²

Misdirection
of writ,

Finally, it may happen that, in spite of every precaution, a writ is misdirected; should this occur when the House is sitting, the proper course is for the Speaker to issue a *supersedeas* of the writ, or to prevent its being delivered.³ But, should the error not be thus remedied, and should the person to whom the writ is sent execute it in good faith, the mistake will not avoid the election.⁴

In London
and Middle-
sex :

Writ, how forwarded.] The manner in which the writs ought to be forwarded has been minutely prescribed by the legislature.⁵ The person appointed by the Lord Chancellor to act as Messenger of the Great Seal⁶ is "forthwith" to carry such writs as are directed to the Sheriffs of London or Middlesex to the officers of such Sheriffs;⁷ and he is also to carry such as are directed to any person who holds his office in or within five miles of the cities of London or Westminster, or the borough of Southwark, to such office; the holder of such office having first notified where he holds it to the Messenger.⁸ In all other cases, the Messenger, or his Deputy,⁹ is to deliver the writ at the General Post

In other
cases.

¹ 3 & 4 Vict. c. 108, s. 84, App. xxxii.

² 25 & 26 Vict. c. 92, s. 3, App. lxiv.

³ *Ante*, p. 8.

⁴ Roe on Elections, I. 443; *Wakefield*, Bar. & Aust. 306; Heyw. Bor. 61.

⁵ 53 Geo. III. c. 89, App. ix.

⁶ By 37 & 38 Vict. c. 81, s. 4, App., the office of messenger or pursuivant of the Great Seal is abolished, and the Lord Chancellor is empowered to appoint a person at a certain salary to perform the duties of messenger with regard to the transmission of writs.

⁷ 53 Geo. III. c. 89, s. 1.

⁸ *Ib.* s. 3.

⁹ Any deputy must be appointed by the Lord Chancellor in writing, 37 & 38 Vict. c. 81, s. 4.

Office in London to the Postmaster or Postmasters-General; or to the Deputy, or Deputies, who shall have been appointed, in obedience to the Act, by such Postmaster or Postmasters-General. The person, or persons, so receiving the writ is, or are, to give a written acknowledgment thereof to the person, or persons, so delivering the same; in which receipt is to be stated the time of the delivery; and a duplicate of this acknowledgment, signed by the parties, to whom, and by whom, the writ is delivered, is to be kept by the receiver. The writ is then to be despatched, postage free, by the first post or mail, under cover, to the officer to whom it is directed; accompanied by instructions requiring the Postmaster or Deputy-Postmaster of the place, or nearest to the place, where such officer holds his office, to deliver the writs to him at such office, or to his Deputy, and such Postmaster is in England expressly forbidden to deliver it to any other person.¹ A written memorandum stating the day and hour of the receipt, and signed by the persons to and by whom the writ has been delivered, is to be transmitted by such Postmaster or Deputy-Postmaster, by the first or second post, to the Postmaster or Postmasters-General, or to their Deputies; who are to make an entry thereof in a book kept for the purpose, and to file the memorandum along with the duplicate of the previous acknowledgment signed by the Messenger; so that both documents may be produced and inspected, on all proper occasions, by any person interested in the election.²

In order that the Postmasters-General may know where to send the writs, the Sheriffs and Stewards of the several cities, counties, and stewartries, and all other persons to whom the writs are to be directed, or their respective Lieutenants, or Deputies, must notify to such Postmasters-General the offices to which the writs are to be directed, together with the post towns in which, or nearest to which, such offices are; and so, from time to time,

Notice to
Postmaster-
General of
place to
which writs
ought to be
directed.

¹ 7 & 8 Will. III. c. 25, s. 1, App. iii. This Act applies only to England.

² 53 Geo. III. c. 89, s. 1, App. ix.

CHAP. II. — with all convenient speed, as often as such offices are changed. Moreover, the Postmasters-General are to have a list of such places hung up in some public place in the General Post Office.

Writs for-
warded
gratuitously.

The person who acts as Messenger of the Great Seal is not now permitted to receive any special remuneration for forwarding writs,² and the acceptance of any fee by any person concerned in transmitting or delivering writs, is, in common with every other transgression of the Act, made a misdemeanour, punishable by fine and imprisonment.³

Notice to
War Office
with respect
to elections
in Great
Britain.

Notice to War Office.] Finally, on the issuing of any new writ for an election in Great Britain, the Clerk of the Crown, or other Officer making out the document, must give notice thereof with all convenient speed to the Secretary of State for War,⁴ or to the person officiating in his stead ; who, in his turn, is required, at some convenient time before the day appointed for the election, to give a similar notice to the general officer commanding in each district of Great Britain. The latter must thereupon give orders, that on the day in question no soldier, quartered within two miles of the place of polling, or nomination (excepting only the guards attending the Sovereign or royal family, or the soldiers stationed in the Bank of England), shall go out of his barrack, or quarters, except to mount or relieve guard, or, if a voter, to vote at the election ; and that any soldier going out for any, or either, of these objects, is to return with all convenient speed after accomplishing them.⁵

¹ 53 Geo. III. c. 89, s. 2, App. x.

² By 37 & 38 Vict. c. 81 (The Great Seal Offices Act, 1874), the 4th section of 53 Geo. III. c. 89, which allowed and fixed remuneration to the messenger of the Great Seal, is repealed.

³ 53 Geo. III. c. 89, ss. 6, 7, App. x.

⁴ By 26 & 27 Vict. c. 12, the office of Secretary at War was abolished, and his duties transferred to the Secretary of State for War.

⁵ 10 & 11 Vict. c. 21, ss. 2, 3, 4. In reply to a question put to him in the House of Commons on March 15, 1880, the Attorney-General stated that in his opinion this Act does not apply to Volunteers.—*Times Newspaper*, Mar. 16, 1880.

CHAPTER III.

PREPARATIONS FOR ELECTION: IN COUNTIES: IN
BOROUGHES: IN SCOTCH COUNTIES: IN SCOTCH
BURGHES: IN IRISH COUNTIES: IN IRISH BOROUGHS.

UPON the writ being delivered to the officer to whom it is addressed, he must indorse upon its back the date of receiving the same in the following form. Thus:—

Indorsement
of writ.

Received the within writ on the — day of —
18—.

(Signed) *A. B., High Sheriff [or Sheriff or
Mayor, as the case may be.]*¹

The subsequent preparations for an election, although they have been to a great extent assimilated by the Ballot Act for all three divisions of the United Kingdom, still differ in some respects, according to which of the three divisions the election may be about to take place in. These preparations will, therefore, be considered, first, in so far as they are the same for the whole United Kingdom, and then those points will be noticed in which the preparations for Scotch and Irish elections differ from those for English elections. University elections will be discussed separately, as they are conducted independently of any part of the Ballot Act except that which relates to personation.² It may be convenient, also, to sub-

¹ See form of writ given in Schedule II. of the Ballot Act, 1872, App. cxvi. See also as to Ireland, 1 Geo. IV. c. 11, s. 5, App. xi. and 4 Geo. IV. c. 55, s. 33, App. xv.; as to Scotland, 2 & 3 Will. IV. c. 65, s. 28, App. xxv.; as to England, 7 & 8 Will. III. c. 25, s. 1, App. iii.

² See Ballot Act, s. 31, App. ci.

CHAP. III. divide the subject further ; namely, with reference, first to counties ; and, next, to boroughs.

Execution of writs gratuitous in English and Irish elections.

It may be here observed, that as to elections in England and Ireland,¹ there are express statutory enactments² that no fee, gratuity, or reward shall be given, paid, received, or taken by any returning officer for making out, or for the delivery, return, or execution of any writ, and any returning officer in England who wilfully³ contravenes this enactment is liable to a penalty of £500 and full costs of suit.⁴ But returning officers in England and Ireland are now by statute⁵ entitled to recover from the candidates or their nominators their reasonable charges in respect of services and expenses of the several kinds mentioned in the first schedule to the Parliamentary Elections (Returning Officers) Act, 1875 ;⁶ it is, however, expressly enacted in that Act that they are not entitled to payment for any other services or expenses, or at any greater rates than as in the said schedule mentioned, any law or usage to the contrary notwithstanding. This, however, does not apply to his charges for the publication of election accounts, which any elector may see on payment of one shilling.⁷

Notice of election.

In counties.] In all county elections the first thing⁸ the returning-officer has to do upon receiv-

¹ As to the payment of returning officers in Scotland see *post*, p. 52 ; also as to Ireland, see p. 56.

² As to England, 7 & 8 Will. III. c. 25, s. 2, App. iii. ; as to Ireland, 4 Geo. IV. c. 55, s. 73, App. xvi. and Irish Act of 35 Geo. III. c. 29, s. 14, App. cli.

³ In *Brown v. Langley Times Newspaper*, May 9, 1874, the Court of Queen's Bench appeared to be of opinion that before the 500*l.* penalty could be recovered it would be necessary to prove that the gratuity had been *wilfully* received, and was not merely a customary payment : but this case was settled, so no actual judgment was given.

⁴ 7 & 8 Will. III. c. 25, s. 6, App. iii.

⁵ 38 & 39 Vict. c. 84, s. 2. See App. *post*.

⁶ See App. *post*.

⁷ 23 Vict. c. 29, s. 4, App. lxvi.

⁸ Proclamations are no longer required to be made, and by

ing the writ is to give public notice within two days after the day on which he receives it, between nine A.M. and four P.M., of the day on which and the place at which he will proceed to an election, of the time appointed for the election, and of the day on which the poll will be taken in case the election is contested, and of the time and place at which forms of nomination papers may be obtained.¹ For the preparation and publication of this notice the returning-officer is, in England and Ireland, entitled to charge any sum not exceeding two guineas.²

The notice is to be in the following form,³ or as nearly representing it as circumstances will permit⁴ :—

The Returning Officer of the [county] of — will, on the — day of — next ensuing, between the hours of — and —, proceed to the nomination, and if there is no opposition, to the election of a member [or members] for the said county [or division of a county] at the [*insert description of place and room*].

Forms of nomination paper may be obtained at [*insert description of place and room*] between the hours of — and — on —.

Every nomination paper must be signed by two registered electors as proposer and seconder, and by eight other registered electors as assenting to the nomination.

Every nomination paper must be delivered to the Returning Officer by the candidate proposed, or by his proposer and seconder, between the said hours of — and — on the said — day of — at the said [*insert description of place and room*].

Each candidate nominated, and his proposer and seconder, and one other person selected by the candidate, and no other persons, are entitled to be admitted to the room.

s. 15 of the Ballot Act the term “proclamation” when used in any previous enactment not repealed by the Ballot Act shall be deemed to include a public notice given in pursuance of the Ballot Act.

¹ Ballot Act, rule 1, App. cii.

² 38 & 39 Vict. c. 84, sch. 1. See App. *post*.

³ Ballot Act, sch. 2, App. cxvii.

⁴ By s. 13 of the Ballot Act no election is to be declared invalid by reason of . . . any mistake in the use of the forms in the second schedule to the act, if it appears that the mistake did not affect the result of the election.

CHAP. III. In the event of the election being contested, the poll will
 — take place on the — day of —
 (Signed) A. B., Sheriff.
 — day of — 18 —.

Take notice that all persons who are guilty of bribery, treating, undue influence, personation, or other corrupt practices at the said election, will, on conviction of such offence, be liable to the penalties mentioned in that behalf in "The Corrupt Practices Prevention Act, 1854," and the Ballot Act, 1872, and the Acts amending the said Acts.

And in giving notice of elections in England and Ireland the following words are also to be added :¹

Take notice that by the Parl. El. (Returning Officers) Act, 1875, it is provided that every person having any claim against a returning officer for work, labour, materials, services, or expenses, in respect to any contract made with him, by or on behalf of the returning officer, for the purposes of the election (except for publications of accounts of election expenses) shall within fourteen days after the day on which the return is made of the person or persons elected at the election, transmit to the returning officer the detailed particulars of such claim in writing, and the returning officer shall not be liable in respect of anything which is not duly stated in such particulars.

Time of election :

With respect to the blanks left in the foregoing form for the day and hour of election, the Sheriff may appoint any day for the purpose (Sundays, Good Friday, and Christmas Day excepted²), not later than the ninth day after the day on which he receives the writ, with an interval of not less than three clear days between the day on which he gives the notice and the day of election,³ and any two hours⁴ of such day between 10 A.M. and 3 P.M.

How public notices are to be given.

It may be well to mention here, once for all, that whenever a Returning Officer is required or authorised by the Ballot Act to give any public notice he shall carry such requirement into effect

¹ 38 & 39 Vict. c. 84, s. 7. See App. post.

² Ballot Act, rule 56, App. cxii.

³ Ballot Act, rule 2, App. cii. If the election is held on the wrong day, it is not clear what effect this would have on its validity. See *Longford case*, 2 O. & H. 7.

⁴ *Ib.* rule 4, App. civ.

by advertisements, placards, handbills, or such other means as he thinks best calculated to afford information to the electors.¹ CHAP. III.

The next thing the Sheriff must do is to send a copy of this notice by post, under cover, to the postmaster of the principal post-office, of each polling place in the county, endorsed with the words "Notice of Election," and the same shall be forwarded free of charge.² Upon receiving this notice, the postmaster is immediately to publish it in the manner in which post-office notices are usually published.³ Transmis-
sion of
notice of
election.

The place of election is, by Rule 3 of the Ballot Act, to be a convenient room situate in the town in which such election would have been held if this Act had not passed, or where the election would not have been held in a town, then situate in such town in the county as the Returning Officer may from time to time determine as being in his opinion most convenient for the electors. In order therefore to determine at what town any county election is now to be held we must ascertain where such an election would have been held before the passing of the Ballot Act. Place of
election.

As to England and Wales, this may be done by referring to the various legislative provisions which have been made from time to time for fixing the places where county elections were to be held. Where this was not fixed by positive enactment, elections were held at the place where they had most usually been held for the forty years preceding 1696.⁴ The greater number⁵ of the provisions on this head are to be found in the Reform Act, 1832,⁶ As to Eng-
lish and
Welsh
counties.

¹ Ballot Act, rule 46, App. cxi.

² Ballot Act, rule 1, App. cii.

³ 7 & 8 Will. III. c. 25, s. 3, repealed by the Ballot Act.

⁴ Those counties for which the places of election are fixed by enactments other than the Reform and Boundary Acts are as follows: for the West Riding, see 24 & 25 Vict. c. 112, ss. 1, 2, 3; for certain Welsh counties, see 27 Henry VIII. c. 26 and 35 Geo. III. c. 72.

⁵ 2 Will. IV. c. 45, ss. 12, 13, 16.

CHAP. III. and in the supplementary statute passed later in the same session under the name of the Boundary Act.¹ With respect, however, to the places appointed by either of these two enactments, the Sheriff is empowered to substitute any convenient place in the neighbourhood of the place at which, previous to 1832, elections were usually held.² The words giving this discretion, indeed, are only to be found in the Boundary Act; but, constructively, they apply equally to the places appointed by the previous statute, inasmuch as the two enactments are to be construed as one.³ The places of election for such divisions of counties as were effected by 30 & 31 Vict. c. 102, s. 23 (amended by 31 & 32 Vict. c. 46, s. 10) will be found in Schedule D of that Act.

Signature of notice of election. It has been decided by an Election Committee⁴ with regard to the Sheriff's signature at the foot of the proclamation formerly used that it may be either written or printed; it seems probable that this decision would hold good now with regard to the notice of election to be given under the Ballot Act.⁵

What must be provided for election. The Returning Officer was not required by the common law to make any preparations for taking the poll, if the election was contested,⁶ but now, by the Ballot Act,⁷ he is required to provide all such "things as may be necessary for effectually conducting an election in manner provided by the Act." If the election is not about to be contested, all that will be required will be nomination papers, for the preparation and supply of which he is in

¹ 2 & 3 Will. IV. c. 64, ss. 1-28.

² *Ib.* s. 34, App. xxiii.

³ *Ib.* s. 14.

⁴ 2nd *Sligo*, 1 P. R. & D. 211; Clerk's Pr. Tr. 13.

⁵ See Ballot Act, s. 13, App. lxxxix. As to affixing a signature by a pen or a stamp, see *Bennett v. Brumfitt*, L. R. 3 C. P. 31.

⁶ See Rogers on Elections, ed. 12, p. 287.

⁷ Ballot Act, s. 8, App. lxxxviii.

England and Ireland entitled to charge any sum not exceeding one guinea.¹ But if a contest takes place, the Returning Officer must, in addition to nomination papers, provide polling stations, ballot boxes, ballot papers, stamping instruments, copies of register of voters, materials to mark the ballot papers with,² and forms of directions for the guidance of the voter in voting.³ These required things may be considered *seriatim*.

Although the Returning Officer is required to provide forms of nomination papers to any registered elector, requiring the same, the use of them is not obligatory so long as the candidate is nominated in the form prescribed in the Act.⁴

The form is as follows⁵ :—

We the undersigned, *A. B.*, of — in the — of —, and *C. D.* of —, in the — of —, being electors for the — of —, do hereby nominate the following person as a proper person to serve as member for the said — in Parliament.

Surname. ⁶	Other Names,	Abode.	Rank, Profession or Occupation.
Brown.	John.	52, George Street, Bristol.	Merchant.

(Signed) *A. B.*
C. D.

We, the undersigned, being registered electors of the

¹ 38 & 39 Vict. c. 84. Schedule I. App. post. This Act does not apply to Scotland. See s. 11.

² Ballot Act, rule 20, App. cv.

³ Sch. 2 of the Ballot Act directs that these forms are to be printed in conspicuous characters and placarded outside every polling station, and in every compartment of every station.

⁴ *Id.* rule 7, App. ciii. In a note to sch. 2 of the Ballot Act it is stated that the forms contained "in the schedule or forms as nearly resembling the same as circumstances will admit shall be used in all cases to which they refer and are applicable, and when so used shall be sufficient in law." See also s. 13, App. lxxiv.

⁵ *Id.* sch. 2, App. cxvii.

⁶ In a note to sch. 2 of the Ballot Act it is stated that "where a candidate is an Irish peer or is commonly known by

CHAP. III. —, do hereby assent to the nomination of the above-mentioned John Brown as a proper person to serve as member for the said — in Parliament.

(Signed) E. F., of —, &c.

Polling
stations.

It is not specified in the Ballot Act that any particular number of polling stations is to be provided, but at every polling place there must be a sufficient number for the accommodation of the electors entitled to vote at such polling place.¹ The polling stations are to be distributed among those electors in such manner as the Returning Officer thinks most convenient,¹ and must be furnished with such number of compartments, in which the voters can mark their votes screened from observation,² as the Sheriff thinks necessary, so that at least one compartment be provided for every 150 electors entitled to vote at such polling station.³ If there is more than one polling station at a polling place, it is not necessary that these several polling stations should be in separate rooms or booths, but several polling stations may be constructed in the same room or booth.⁴ Neither is it necessary in all cases to erect booths for taking the poll in, for now, "in all contested elections for counties or boroughs, unless some building or place belonging to the county or borough is provided for the purpose, the Returning Officer must, whenever it is practicable to do so, hire a building or room instead of erecting a booth

some title he may be described by his title as if it were his surname." As to the description of candidates in the nomination papers and as to objections to the validity of nomination papers, see *post*, pp. 66—68.

¹ Ballot Act, rule 15, App. civ. See also a similar enactment as to England in 2 Will. IV. c. 45, s. 64, App. xix.

² If the arrangements of the polling stations are such that the secrecy of the ballot may be, but is not in fact, violated, the election will not in consequence be held void. Per Keogh, J., *Drogheda*, 2 O. & H. 203, the Court of Common Pleas, for whom the point was reserved, being equally divided as to it.

³ Ballot Act, rule 16, App. cv.

⁴ *Id.* rule 17, App. cv.

for the purpose of taking the poll.”¹ Also where a parliamentary and a municipal borough occupy the whole or any part of the same area, any fittings for polling stations and compartments provided for such municipal borough may be used in a parliamentary election free of charge,² and it shall be the duty of the returning officer, so far as practicable, to make use of such fittings and compartments, and also of any which may have been provided for school board elections, and upon taxation of his accounts the Court is specially enjoined to have regard to this enactment.³ Also, if there is any school at the polling place receiving a grant out of the moneys provided by Parliament, or any room the expense of maintaining which is payable out of any local rate, the Returning Officer may use a room in such school, or such room, free of charge, for the purpose of taking the poll in, but he must make good any damage done to such room, and defray any expense incurred by the persons having control over the same. Such expense, however, must not exceed the charge for constructing and fitting a polling station, *i.e.*, seven guineas.⁴ If the Returning Officer hire a room in an unoccupied house for the purpose of taking the poll in, such hiring of the room shall not render any person liable to pay rates for such house.⁵

The regulations for settling the number of polling places in counties are different for each part of the United Kingdom.

¹ As to England, 30 & 31 Vict. c. 102, s. 37, App. lxx. ; as to Scotland, 31 & 32 Vict. c. 48, s. 26, App. lxxiii. ; as to Ireland, 31 & 32 Vict. c. 49, s. 10, App. lxxix. It may be observed that the latter part of s. 37 of 30 & 31 Vict. c. 102, is repealed by the Ballot Act, so that it appears that in England (but not in Scotland or Ireland) any rate-supported room may by virtue of this section be used to take the poll in whether those who have control over it consent or not.

² Ballot Act, s. 14, App. lxxxix.

³ 38 & 39 Vict. c. 84, s. 6, App. *post*.

⁴ 38 & 39 Vict. c. 84, Schedule I. App. *post*.

⁵ Ballot Act, s. 6, App. lxxxvii.

CHAP. III.
In English
counties.

In English counties the number of polling places is settled by the justices of the peace having jurisdiction in such counties, or in the larger part thereof.¹ They are directed to divide each county into polling districts, and assign a polling place to each district in such manner that so far as is reasonably practicable every elector resident in the county shall have a polling place within four miles of his residence, but they need not constitute a district containing less than one hundred registered electors.¹ This power the justices are authorised to exercise from time to time, and as often as they think fit,² but whenever the justices make any alterations in the polling districts they are to inform the Home Secretary of the nature of the alteration, and he is to lay it before both Houses of Parliament.¹

Not to be in
inn unless
by consent
of candi-
dates.

No poll may, in English or Scotch elections, be held at any inn, hotel, tavern, public-house, or other premises licensed for the sale of beer, wine, or spirits, or in any place directly communicating therewith, unless by consent of all the candidates expressed in writing.³

Limit of ex-
pense of.

The Sheriff is limited as to the expense which, apart from any special contract with the candidates, he may incur in erecting polling stations. In England the maximum charge for constructing a polling station with its fittings and compartments is seven guineas,⁴ and no greater outlay than £40 is to be incurred for the total number of booths erected or buildings procured or hired in any one principal place of election or polling place.⁵ In

¹ Ballot Act, s. 5, App. lxxxvii. ; this section only applies to England, see Ballot Act, ss. 16 (4), 17 (2), and 30 & 31 Vict. c. 102, s. 34, App. lxxviii.

² 31 & 32 Vict. c. 58, s. 18, App. lxxx.

³ As to England, 16 & 17 Vict. c. 68, s. 6, App. li. ; as to Scotland, 16 Vict. c. 28, s. 4, App. xlviii. There is no such statutory restriction as to Ireland.

⁴ 38 & 39 Vict. c. 84, Schedule I. App. *post*.

⁵ 2 Will. IV. c. 45, s. 71, App. xxi.

Scotland the amount is limited to £30,¹ and in Ireland the returning officer shall use a court-house where one is available, and his maximum charge for using and fitting the same shall not exceed three guineas.² If no court-house is available, then he may charge £5 for every polling station.³

CHAP. III.

No special directions are given as to the construction of the ballot boxes, except that they are to be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom without the box being unlocked.⁴ It is specially enacted as to England and Ireland that the charge for each ballot box which is purchased is not to exceed one guinea, and for each hired one five shillings;⁵ also if a Parliamentary and municipal borough occupy the whole or any part of the same area, any ballot boxes provided for such municipal borough may be used in any Parliamentary election in such borough free of charge,⁶ and it shall be the duty of the returning officer, so far as is practicable, to make use of such ballot boxes, and also of any which may have been provided for School Board elections, and upon taxation of his accounts the Court is enjoined to have regard to this enactment.⁶

Ballot boxes.

The ballot papers will consist of papers with a counterfoil attached,⁷ and may conveniently be bound up in books like cheque books.⁸ Upon the front of the paper there will be a list of the candidates described, as in their respective nomination papers, and arranged alphabetically in the order of their surnames, and (if there be two or more candi-

Ballot papers.

¹ 2 & 3 Will. IV. c. 65, s. 40, App. xxvii.

² 38 & 39 Vict. c. 84, Schedule I, App. *post*.

³ 13 & 14 Vict. c. 68, s. 19, App. xlii. Ballot Act, s. 17 (4), App. xcii.

⁴ Ballot Act, rule 23, App. cv.

⁵ Ballot Act, s. 14, App. lxxxix.

⁶ 38 & 39 Vict. c. 84, s. 6, App. *post*.

⁷ Ballot Act, sch. 2, *Form of ballot paper*, App. cxix.

⁸ *Id.* rule 22, App. cv.

CHAP. III. dates with the same surname) of their other names.¹ If the same person is more than once nominated, "the returning officer should enter his name only once upon the ballot paper, and either describe him only as in his correct nomination paper, or append to his name the descriptions in any of his nomination papers which differ, as thus, 'Charles Northcote, described in one nomination paper as of Bridport Street, Barnstaple, gentleman, and in another as of South Street, Bishop Tawton, land agent.' To enter his name more than once is obviously wrong as matter of sense, and is contrary to the words of rule 22."² No person is entitled to have his name inserted in any ballot paper as a candidate unless he has been nominated in manner provided by the Ballot Act. On the right-hand side of each name there must be a vacant space left for the voter to place his mark in.³ Upon the counterfoil will be nothing but a number, which is to correspond with the number on the back of the ballot paper.⁴ Upon the back of the ballot paper will be a number which is to correspond with the number on the counterfoil, and the following words⁴ :—

Election for — county [or borough]
18—.

Nothing else is to be printed on the ballot paper, except as above described. The surnames of each candidate (and, if there be two or more candidates of the same surname, also the other names of such candidates) are to be printed in large characters, as shown in the form contained in the Schedule of the Ballot Act, and the names, addresses, and descriptions, as well as the number

¹ Ballot Act, rule 22, App. cv.

² Per Brett, J., in *Northcote v. Pulsford*, L. R. 10 C. P. 484.

³ Ballot Act, sch. 2, *Form of directions for guiding the voter in voting*, App. cxx.

⁴ *Id.* sch. 2, *Form of ballot paper*, App. cxix.

on the back of the paper, are to be printed in small characters.¹ In addition to the ballot papers supplied for ordinary voters, the Returning Officer must supply ballot papers of the same form, but of a different colour, to be used by persons who tender their votes after they have been personated.² The charge for printing and providing ballot papers is not to exceed thirty shillings per thousand.³

CHAP. III.

No particular directions are given as to the nature of the stamping instrument, except that the official mark to be made by it is to be kept secret, and the same mark is not to be used more than once in every seven years at elections for the same borough or county.⁴ The mark may be either stamped or perforated;⁵ as it must be visible on both sides of the paper, it is usual to use either a perforating or embossing stamp. The charge for each stamping instrument is not to exceed ten shillings.⁶

Stamping
instru-
ments.

The directions for guiding the voter in voting are to be printed in conspicuous characters and placarded outside every polling station, and in every compartment of every polling station.⁶ They are to be as follows⁶ :—

Directions
for guiding
the voter in
voting.

The voter may vote for — candidate.

The voter will go into one of the compartments, and, with the pencil provided in the compartment, place a cross on the right hand side, opposite the name of each candidate for whom he votes, thus x.

The voter will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and, then, in the presence of the presiding

¹ Ballot Act, sch. 2, *Directions as to printing ballot paper*, App. cxix.

² *Id.* rule 27, App. cvi.

³ 38 & 39 Vict. c. 84, Schedule I. App. post.

⁴ Ballot Act, rule 20, App. cv.

⁵ *Id.* rule 24, App. cvi.

⁶ Ballot Act, sch. 2, *Form of directions for the guidance, &c.*, App. cxx.

CHAP. III. officer, put the paper into the ballot box, and forthwith quit the polling station.

If the voter inadvertently spoils a ballot paper, he can return it to the officer, who will, if satisfied of such inadvertence, give him another paper.

If the voter votes for more than — candidate, or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling station, or deposits in the ballot box any other paper than the one given him by the officer, he will be guilty of a misdemeanour, and be subject to imprisonment for any term not exceeding six months, with or without hard labour.

Public notice
to be given
of situation
of polling
stations

In addition to these preparations, the Sheriff must bear in mind that it is his duty before the election to give public notice¹ of the situation of the various polling stations and the description of voters entitled to vote at each station, and of the mode in which electors are to vote;² and in English county elections there must be affixed, upon the most conspicuous part of each polling station, or place for polling in, the names of the several parishes, townships,³ &c., which are inhabited by the voters to whose use the booth is allotted.

What must
be supplied
at each
polling
station.

The Sheriff must also remember, that each polling station is to be provided with pencils⁴ for voters to mark the ballot papers, with instruments⁵ for stamping the official mark on the ballot papers, with copies of register of voters, or such part of the register as contains the names of the voters allotted to vote at such election,⁶ with a sufficient number of ballot papers,⁷ and with sealing-wax wherewith to

¹ As to how public notices are to be given, see above, p. 22.

² Ballot Act, rule 19, App. cv.

³ 2 Will. IV. c. 45, s. 71, App. xxi.

⁴ *Id.* sch. 2, *Form of directions for the guidance of voters in voting*, App. cxx.

⁵ As to the nature of these stamping instruments, see above, p. 31.

⁶ Ballot Act, rule 20, App. cv.

⁷ *Ib.* s. 8, App. lxxxviii.

seal up the ballot boxes and ballot papers after the close of the poll.¹ The charge for stationary at each polling station is not to exceed ten shillings, and for copies of the register the sums payable by statute for the necessary copies.²

CHAP. III.

These are the preparations which a Returning Officer must make against the event of a poll being required. And these preparations must in the first instance be made at the Returning Officer's own expense. For although, in the event of a contest being probable, it is advisable that the Returning Officer should before the nomination day obtain if possible from the several candidates an indemnity sufficient to cover the expenses he will be put to, still the Returning Officer "is not entitled to impose the payment or deposit of a sum for election expenses as a condition precedent to the putting a proposed candidate in nomination;"³ although, as we shall presently see,⁴ he is now entitled by 38 & 39 Vict. c. 84, s. 3,⁵ in the event of more candidates being nominated than there are vacancies to be filled, to require from the several candidates a deposit of security for the expenses of taking a poll. This, no doubt, makes the post of Returning Officer to a certain degree one of an onerous character. For it has been decided, as to an election in England,⁶ that—however active may have been the canvassing, and even though so-called candidates may have presented themselves—yet, unless a poll actually takes place, the election will not be "contested," within the meaning of the clauses passed to saddle *candidates* (or, if such candidates are proposed without their own consent, to saddle their proposers) with the ex-

Returning officer must in the first instance make preparations at his own expense.

"Candidates" how far liable for expenses of a "contested" election.

¹ *Ib.* rule 29, App. cv.

² 38 & 39 Vict. c. 84, Schedule I. App. 69.

³ *Davies v. Lord Kensington*, L. R. 9 C. P. at p. 726.

⁴ *Post*, p. 69.

⁵ App. *post*.

⁶ *Muntz v. Sturge*, 8 M. & W. 302.

CHAP. III. — penses of a "contested election."¹ In other words, unless a poll becomes necessary from the fact of there being more candidates nominated than there are places to be filled, the Sheriff cannot recover from the candidates the expense which he has been at in making preparations for a poll. But, on the other hand, if, when the polling day comes, proper preparations have not been made, and a large proportion of electors are prevented in consequence from recording their votes, the election may be set aside on petition, and the Returning Officer may be held liable to pay the costs of the inquiry.²

Candidates
liable for
expense of
contest.

Whether a contest takes place or not, the expenses properly incurred by the Returning Officer in carrying into effect the provisions of the Ballot Act are now payable in the same manner as the expenses incurred in the erection of polling booths were payable before the passing of the Ballot Act.³ The law as to expenses is therefore still regulated by 2 Will IV. c. 45, s. 71,⁴ that is to say, polling booths are to be erected at the joint and equal expense of the several candidates, the candidates being at liberty to contract with the returning officer for their expenses; but if no contract is made, the returning officer is limited to spending £40 at each principal polling place in counties, and £25 in boroughs. It is, however, further enacted by 38 & 39 Vict. c. 84, s. 2,⁵ that a re-

¹ 2 Will. IV. c. 45, s. 71, App. xxi.; which applies also to boroughs; *Muntz v. Sturge* (1841), 8 M. & W. 302. The definition of the words *candidate at an election* in section 38 of the Corrupt Practices Act, 1854, is now repealed; and for the purposes of that enactment, the words are to include all persons elected to serve in Parliament, or nominated as candidates at such election (unless nominated without their own consent); or who declare themselves candidates on, or after, the issue of the writ, or after the dissolution, or vacancy, in consequence of which the writ issues; 21 & 22 Vict. c. 87, s. 3, App. lviii.

² *Hackney*, 2 O. & H. 77.

³ Ballot Act, s. 8, App. lxxxviii.

⁴ App. xxi.

⁵ App. post.

turning officer shall not be entitled to payment for any other services or expenses, or at any greater rates than as in the first schedule to that Act mentioned,¹ any law or usage to the contrary notwithstanding. A candidate is not liable, in any case, for charges not laid on him by statute, except under his own contract, whether express or implied;² still a jury would probably infer a contract against him as regards the cost of any things, or services, in the obtaining of which he had clearly acquiesced, or of which he had knowingly availed himself without protest.

CHAP. III.

Let it, however, be supposed that a contest is likely, and that full preparations are to be made. The Returning Officer's first duty will then be to select proper persons for his staff; viz, presiding officers, poll-clerks, competent persons to assist him in counting the votes,³ if he thinks he will require assistance, and constables or peace-officers;⁴ and he must bear in mind that no person is eligible to be appointed by him for the purposes of an election who has been employed by any other person in or about the election.⁵ The number of presiding officers will in no case exceed the number of polling stations.⁶ As he cannot determine how many, or what kind of, persons he should appoint in these capacities, without a knowledge of the duties they will have to perform, and the remuneration allow-

Full preparation for a contest.

Returning officer's staff.

¹ App. post.

² *Wathen v. Sandys*, 2 Campb. 643; *Morris v. Burdett*, 1 id. 218.

³ Ballot Act, rule 48, App. cxi.

⁴ See *Gloucester Case*, 2 O. & H. 62, cited *infra*, p. 41, note ⁶.

⁵ Ballot Act, rule 49, App. cxi.

⁶ Ballot Act, rule 21, App. cv. enacts that a presiding officer is to be appointed for each polling station, but by sch. 1, par. 47, the returning officer is empowered to preside himself at any polling station, consequently if there was only one polling station required for an election it would not be absolutely necessary for the returning officer to appoint any presiding officer at all.

CHAP. III.

Presiding
officers,
duty of.

able for such duties, a short account will here be given of the statutory provisions with respect to each of the functionaries in question.

It is the duty of a presiding officer to preside at the polling station to which he is appointed by the Returning Officer : to keep order at his station,¹ to regulate the number of electors to be admitted at a time, and to exclude all other persons except the clerks, the agents of the candidates, the constables on duty,² and the candidates themselves, with regard to whom it is expressly provided that they may be present at any place at which their agents may attend.³ Before the commencement of the poll he must show the ballot-box empty to such persons, if any, as may be present at the polling station at which he is presiding, so that they may see that it is empty ; he must lock it up and place his seal upon it in such manner as to prevent its being opened without breaking the seal, and he must then place it in his view for the receipt of ballot papers, and keep it locked and sealed until the poll is closed.⁴ Upon an elector applying for a ballot paper, he must, before delivering one to the elector, mark it, or cause it to be marked, on both sides with the official mark,⁵ (for making which mark the Returning Officer must, as we have seen,⁵ supply a

¹ By s. 9 of the Ballot Act, App. lxxxviii. the presiding officer has special power given him to order into custody any person misconducting himself in a polling station or failing to obey his lawful orders.

² Ballot Act, rule 21, App. cv.

³ Ballot Act, rule 51, App. cxi., and see *Clementson v. Mason*, L. R. 10 C. P. 209, where this point was expressly decided.

⁴ Ballot Act, rule 23, App. cv. In *Rogers on Elections*, ed. 12, p. 326, it is suggested that under certain circumstances the presiding officer may open the ballot-box and take therefrom a ballot paper while the poll is going on.

⁵ By s. 2 and rule 36 of the Ballot Act no ballot paper is to be counted unless it has on it the official mark, *Wigton*, 2 O. & H. 216. As to the consequences if the presiding officer neglects or omits to mark the ballot paper with the official mark, see *Pickering v. James*, L. R. 8 C. P. 489 :

stamp to each polling station); the number, name, and description of the elector, as stated in the copy of the register, must then be called out, the number of such elector must be marked on the counterfoil, and a mark placed on the register against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received.¹ As soon as the elector has secretly marked his vote on the ballot paper (in manner hereafter² to be explained) and folded it up so as to conceal his vote, it is the duty of the presiding officer to inspect the official mark upon the back before it is put into the ballot-box.³ If the elector upon applying for a ballot paper states (1) that he is incapacitated from blindness or other physical cause from himself marking his ballot paper, or (2) (if the poll be taken on Saturday) that he is a Jew, and objects on religious grounds to mark his paper, or (3) that he is unable to read, and makes the prescribed declaration⁴ to that effect, but in no other case, the presiding officer may himself mark the ballot paper in the way the elector directs, and place it in the ballot-box with the other papers. The presiding officer must keep a list of the names and numbers of any

CHAP. III.

Vote of
elector in-
capacitated
from blind-
ness or
other cause.

¹ Ballot Act, rule 24, App. cvi.

² *Post*, p. 35.

³ Ballot Act, s. 2, App. lxxxiv. and rule 36, App. cviii. If the presiding officer omits or neglects to inspect the official mark on the back of the ballot paper before it is put into the box, and it afterwards is rejected for want of the official mark, the presiding officer is liable to be sued for his neglect by a candidate who upon a scrutiny is found to have lost his election through votes given to him being void for want of the official mark. *Pickering v. James*, L. R. 8 C. P. 489. By s. 3, the fraudulent destruction of the official mark is a misdemeanour.

⁴ Ballot Act, sch. 2, App. cxx. By rule 26, App. cvi. this declaration must be made by the voter at the time of polling before the presiding officer, who shall attest it in the form mentioned in schedule 2, and no fee, stamp, or other payment shall be charged in respect of such declaration, and the said declaration shall be given to the presiding officer at the time of voting.

CHAP. III. voters whose papers are thus marked by him, with the reasons why they were so marked, which list will be called "the list of voters marked by the presiding officer."¹ After the close of the poll, as soon as practicable, he must,² in the presence of the agents of the candidates, make up into separate packets,³ sealed with his own seal and the seals of such of the agents as desire to affix their seals,—

- (1) The ballot box⁴ in use at his station, unopened, but with the key attached ;
- (2) The unused and spoilt ballot papers placed together ;
- (3) The tendered ballot papers ;
- (4) The marked copies of the register of voters and the counterfoils of the ballot papers ;
- (5) The tendered votes list, the list of votes marked by the presiding officer, and a statement of the number of the voters whose votes are so marked by the presiding officer under the heads "physical incapacity," "Jews," and "unable to read," and the declarations of inability to read.

These sealed packets he must deliver to the

¹ Ballot Act, rule 26, App. cvi.

² Ballot Act, rule 29, App. cvii.

³ It would appear at first sight that the five numbers in rule 29 were put there in order to denote that there are to be five packets made, each containing the various things mentioned under each number. But according to the view of Brett, J., as stated in *Stowe v. Jolliffe*, L. R. 9 C. P. 454, "the numbers are put merely to denote divisions of the subjects, and not to denote what is to be put in one packet." Therefore, with the exception of the unused and spoilt ballot papers (which, it is expressly stated, are to be placed together), it is advisable to put all the various things mentioned in rule 29 in separate sealed packets.

⁴ The Ballot Act, rule 29, says "each ballot box," but no allusion to more than one ballot box being necessary or allowable for each polling station is contained in any other part of the Act.

Returning Officer,¹ and with them he must send a statement showing the number of ballot papers entrusted to him, and accounting for them under the heads of (1) ballot papers in the ballot box, (2) unused, (3) spoilt, and (4) tendered ballot papers.² In addition to these special duties, the presiding officer has, for the purpose of adjournment of the poll (in case of riot or interruption), and of every other enactment relating to the poll, the same power as formerly by law belonged to a Deputy Returning Officer.³

CHAP. III.
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If the election is contested, every presiding officer must⁴ before the opening of the poll, after having had the 4th section of the Ballot Act read to him,⁵ make a statutory declaration of secrecy in the presence of a Justice of the Peace or the Returning Officer,⁶ in the following words :⁷—

Statutory
declaration
to be made
by presiding
officer.

I solemnly promise and declare that I will not at this election for — do anything forbidden by section four of the Ballot Act, 1872, which has been read to me.

Besides this statutory declaration no other oath is now required to be taken on the occasion of any election.⁸

The pay of a presiding officer is not to exceed three guineas a day.⁹

Payment of
presiding
officer.

¹ Ballot Act, rule 29, App. cvii.

² *Id.* rule 30, App. cvii.

³ *Id.* s. 10, App. xxxix. As to adjourning the poll in case of riot, see below, p. 76.

⁴ In the *Drogheda Case*, 2 O. & H. 206, it appeared from the special case stated that no declaration of secrecy had been taken by any one, and this was made a ground for impeaching the validity of the election. But as to this the court unanimously decided that it could not affect the validity of the election. Per Morris, J., Judgments printed by House of Commons, Aug. 5, 1874, p. 40.

⁵ See note to "statutory declaration of secrecy," Ballot Act, schedule 2, App. cxx.

⁶ Ballot Act, rule 54, App. cxii.

⁷ *Id.* sch. 2. Form of statutory declaration of secrecy, App. cxx.

⁸ 38 & 39 Vict. c. 84, schedule 1, App. *post*, as to England and Ireland, and Ballot Act, s. 16 (5), App. xci. as to Scotland.

CHAP. III. — It has been held that a Deputy Returning Officer must be of full age,¹ but, besides this, there is now no other qualification required for holding the office in any part of the United Kingdom.²

Poll-clerk. The next functionaries to be appointed are the poll-clerks.³ Their duty is simply to obey the orders of the presiding officer, and, when required by him to do so, to ask the questions and administer the oath authorised by law to be asked of and administered to voters.⁴ Any act which the presiding officer is required or authorised by the Ballot Act to do at a polling station may be done by any of the clerks appointed to assist him, except ordering the arrest of any person, or his exclusion, or ejection from the polling station.⁵ Before the commencement of the poll they have to make the same statutory declaration of secrecy as the presiding officer.⁶ The Returning Officer in England and Ireland⁷ may appoint one poll-clerk at each polling station, and an additional clerk for every 500 voters, or fraction thereof, after the first 500. The pay of a poll-clerk is to be not more than one guinea.⁸

Additional clerks for counting votes.

In addition to the clerks who are to assist in

¹ *Belfast, B. & Aust.* 555.

² By the Ballot Act, rule 63, App. cxiii. it is enacted that a presiding officer at a polling station in a county in Ireland need not be a freeholder of the county. This qualification was formerly required for Deputy Returning Officers by 60 Geo. III. & 1 Geo. IV. c. 11, s. 21, which is now repealed by the Ballot Act.

³ Ballot Act, s. 8, App. lxxxviii.

⁴ *Id.* s. 10, App. lxxxix.

⁵ *Id.* rule 50, App. cxi. As to a clerk's liability to be sued for negligently performing the duties allotted to him by the presiding officer, see remarks of the judges in *Pickering v. James*, L. R. 8 C. P. 489.

⁶ *Id.* rule 54, App. cxii.

⁷ 38 & 39 Vict. c. 84, schedule 1, App.

⁸ Ballot Act, s. 16 (5), App. xci. as to Scotland, and 38 & 39 Vict. c. 84, schedule 1, App. *post*, as to England and Ireland.

taking the poll, the Returning Officer has the power of appointing competent persons to assist him in counting the votes.¹ These persons, however, must be appointed before the commencement of the poll, as they as well as all other persons authorised to attend at the counting of the votes have to make the required statutory declaration of secrecy before the commencement of the poll.² The number of these persons is in England and Ireland³ not to exceed six, where the number of registered electors does not exceed 3000; and in addition to these six, one may be appointed for every additional 2000 electors. The pay of these persons is to be one guinea each. There is no statutory enactment as to the number or pay⁴ of these persons as to Scotland.

CHAP. III.

The Sheriff⁵ must also provide a sufficient attendance of constables or peace-officers, in each booth or place for polling in, for the purpose of taking into custody anybody who [in England or Ireland⁶] is charged with the offence of personation,⁷ or who misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer.⁸ These last-mentioned persons may be immediately removed from the polling

Constable
to prevent
personation
and to keep
order.

¹ Ballot Act, rule 48, App. cxi.

² *Id.* rule 54, App. cxii.

³ 38 & 39 Vict. c. 84, schedule I.

⁴ But see Ballot Act, s. 16 (5), App. xci.

⁵ In the *Gloucester Case*, 2 O. & H. 62, it appeared that each party had appointed twenty-four persons to keep order at the doors of the polling stations. Blackburn, J., said as to this, "it would be much better in future to let the returning officer select the proper number of officers to do the work, and not to delegate it to the political parties."

⁶ As to personation at Scotch elections, see *post*, p. 90.

⁷ 6 Vict. c. 18, s. 90, App. xxxvi. as to England, and 13 & 14 Vict. c. 69, s. 97, App. xlv. as to Ireland. See as to this offence, *post*, p. 95.

⁸ Ballot Act, s. 9, App. lxxxviii. Candidates if present at a polling station are liable to be removed by virtue of this section in the same way as other persons, if they misconduct themselves. Per Brett, J., in *Clementson v. Mason*, L. R. 10 C. P. 214.

CHAP. III. station by order of the presiding officer by any constable in or near the polling station, or by any person, not a constable, if authorised in writing by the Returning Officer to do so. Any person so removed, if charged with the commission in such polling station of any offence, may be kept in custody until he can be brought before a Justice of the Peace. But it is specially enacted that this power of removing a person for misbehaving himself shall not be exercised so as to prevent any elector who is otherwise entitled to vote from having an opportunity of doing so.¹ No person entitled to vote at the election is "compellable" to serve as a special constable, "unless he has consented to do so."²

Deputy appointed by sheriff.

There is one other appointment which Sheriffs, who are Returning Officers for more than one county as defined for the purposes of parliamentary elections, may be called upon to make, and that is, the appointment of a Deputy to act for him for all or any of the purposes relating to an election in any such county. The appointment must be made by the Sheriff in writing. When a Sheriff has appointed such Deputy, he may, either by himself or by his Deputy, exercise any powers or do any things which the Returning Officer is authorised or required to exercise or do in relation to an election. And every such Deputy, and also any Under-Sheriff, shall, in so far as he acts as Returning Officer be deemed to be included in the term Returning Officer within the meaning of all Acts relating to parliamentary elections.³ The pay of such Deputy is regulated by 38 & 39 Vict. c. 84, Schedule I.⁴

Sheriff need not preside in person.

Having thus appointed his representatives and

¹ Ballot Act, s. 9, App. lxxxviii.

² 17 & 18 Vict. c. 102, s. 8, App. liv.

³ Ballot Act, s. 8, latter part, App. lxxxviii.

⁴ The schedule states the amount which may be paid "for professional and other assistance in and about the conduct of the election."

staff, the Returning Officer in county elections may, if he pleases, withdraw from any further direct concern with the election.¹ To his Deputies, or to the Under Sheriff,² may be left the ordering of the booths, or compartments, or the hiring of buildings, for polling in; subject, of course, to the limitations, binding on the Sheriff himself, which have been stated.

CHAP. III

If the Sheriff of a county in England dies (and probably the same rule would apply if he went out of office) after receiving the writ, and before the election, and a successor is at once appointed, a new writ will be ordered by the House (if sitting) to his successor.³ The course does not seem to be equally clear as to county elections in England, where the death, or change, occurs during a recess, or on a general election. Not is it clear what would be the proper course to adopt if in an English county election the Sheriff were to die or become incapacitated after the issue, but before the receipt of the writ, or after the election, but before he has made the return.⁴

Vacancy in
shrievalty
between
writ and
election.

In boroughs.] In every borough, city, and town, whether it be a county of itself or not, the Returning Officer must give public notice⁵ of the

Notice of
election.

¹ It is nowhere distinctly laid down, but it appears to be assumed in all the text books on the subject, that the Sheriff need not conduct any part of an election in person, but that his Under Sheriff may act for him throughout. It does not, however, seem clear whether the legislature by empowering the Sheriff (by s. 8 of the Ballot Act) to appoint a Deputy, when he is Returning Officer for more than one set of members, assumed that he could not have appointed such a Deputy without statutory power to do so.

² 2 Will. IV. c. 45, s. 64, App. xx.

³ *Pembrokeshire*, 11 Com. J. 338; *Gloucester City*, 14 Com. J. 88; Rogers, ed. 12th 341. As to procuring the appointment of a successor, see *ante*, p. 14.

⁴ Rogers, ed. 12th 341. As to Scotland, see below, p. 53, and as to Ireland, p. 59.

⁵ As to the way in which public notices are to be given, see Ballot Act, rule 46, App. cxi., and *ante*, p. 22.

CHAP. III. coming election in the same form as for elections for counties.¹

Notice when published. The notice must be published on the day on which the Returning Officer receives the writ, or the following day between the hours of nine A.M. and four P.M.²

Time of election. In the case of a borough, other than a district borough, the day of election must be fixed not later than the fourth day after the day on which he receives the writ, with an interval of not less than two clear days between the day on which he gives the notice and the day of election. In the case of a district³ borough, the day of election must be fixed not later than the ninth day after the day on which he receives the writ, with an interval of not less than three clear days between the day on which he gives the notice and the day of election.⁴ The rule as to the hour of day at which the election must be held is the same as for counties.⁵

Place of election. The place of election is to be a convenient room in the borough, or in the case of a district borough, in such town as the election would have been held at before the passing of the Ballot Act,⁶ subject to the proviso as to borough elections in England (which, however, does not apply to the Universities of Oxford and Cambridge,⁷) that no nomination may be held in any church, chapel, or other place of public worship.⁸

Polling districts and places. In England the local authorities of every

¹ *Ante*, p. 20. See also Ballot Act, sch. 2, *Form of notice of parliamentary election*, App. cxvii.

² Ballot Act, rule 1, App. cii.

³ As to what boroughs are district boroughs, see Ballot Act, rules 57, 60, App. cxii., cxiii.

⁴ *Id.* rule 2, App. cii. If the election is held on a wrong day, it is not clear what effect this would have on the validity of the election. See *Longford*, 2 O. & H. 7.

⁵ *Id.* rule 4, *ante*, p. 22.

⁶ *Id.* rule 3, App. cii.

⁷ 2 Will. IV. c. 45, s. 78, App. xxii.

⁸ *Id.* s. 68, App. xx.

borough, may, if they think convenience requires it, divide the borough into polling districts;¹ and in contested elections, the Returning Officer must provide at least one polling place for each district;² and where a parliamentary borough consists of two or more towns more than two miles apart, a polling place must be provided in each town.³ The local authorities may also, from time to time, alter any districts made under the Act.³ A description of the polling districts made or altered in pursuance of the Act is to be advertised by the local authorities in such manner as they think fit; and notice of the situation, division and allotment of the polling place for each district, is to be given in the manner required by law.⁴ For the above purposes the local authorities are, in municipal boroughs, and in any borough part of which forms a municipal borough, the town council; and in any other borough, where the town council is not the local authority, the Justices of the Peace, of the petty sessional division in which such borough is situated; and if such borough be situate in, or comprise more than one petty sessional division, then the justices in general, or quarter sessions having jurisdiction over such borough, or over the greater part thereof in area.⁵

CHAP. III.

Every Returning Officer of a borough is under the same necessity as the Sheriff in a county election, of making preparations against the event of a contest; and the expediency of his doing so beforehand depends on the same considerations and enactments as have already been discussed.⁶ Supposing him to decide on such a step, he must now⁷ make precisely the same preparations for

Preparations for taking poll.

¹ Ballot Act, s. 5, App. lxxxvi. This section only applies to England, see Ballot Act, ss. 16 (4), 17 (2).

² 30 and 31 Vict. c. 102, s. 34, App. lxix.

³ 30 & 31 Vict. c. 102, s. 34, App. lxix.

⁴ See Ballot Act, rule 46, App. cxi.

⁵ 31 & 32 Vict. c. 58, s. 18, App. lxxx.

⁶ *Ante*, pp. 33-35.

⁷ Ballot Act, s. 8, App. lxxxviii.

CHAP. III. — effectually conducting the election in manner provided by the Ballot Act, as we have seen the Sheriff has to make for county elections,¹ except that in the City of London, the freemen, who are liverymen, and entitled to vote, are all polled in the Guildhall, and no booth or polling compartment may be provided.²

Number of
polling
stations.

In English
boroughs.

As we have seen with regard to counties, so also with regard to boroughs, no particular number of polling stations is specified as being necessary. The Returning Officer is merely required to provide a sufficient number.³ If, however, a borough in England has been divided into polling districts by the local authority,⁴ each district must have at least one polling station; and where a borough comprises two or more towns, each town must have its polling station.⁵ But the discretion of the Returning Officer as to providing more than one polling station for each district is limited by the provision of 2 Will. IV. c. 45, s. 71, which is left unrepealed by the Ballot Act, and which enacts that the expense to be incurred for any booth or booths⁶ to be erected for any parish, district, or part of any city or borough, shall not exceed the sum of £25 in respect of any one such parish, district, or part; also by 38 & 39 Vict. c. 84, schedule I,⁷ the Returning Officer may not charge more than one guinea for each compartment required to be constructed, or five shillings for compartments hired. The same rule as to hiring a building, if possible, instead of erecting a booth,

¹ *Ante*, pp. 24–32.

² 6 Vict. c. 18, s. 92, App. xxxvi.

³ Ballot Act, rule 15, App. civ.

⁴ 30 & 31 Vict. c. 102, s. 34, App. lxix., and Ballot Act, s. 5, App. lxxvii.

⁵ 30 & 31 Vict. c. 102, s. 34, App. lxix.

⁶ By s. 15 of the Ballot Act the word “polling station” is to be read for “booth” in all previous enactments.

⁷ App. *post*.

applies as in county elections,¹ and also the rule about taking the poll in inns.² CHAP. III.

Such are the rules by which the Returning Officer will be guided in deciding as to the number and situation of the polling stations, and as to the other preparations for taking the poll. In case he should feel uncertain as to the ultimate necessity of a poll, he may naturally feel reluctant to make any further preparation for the election than publishing the notice of election, as above described, and providing nomination papers. For, if he does not obtain an indemnity from the proposed candidates, he will be personally liable for the expenses of any further preparations for a contest, unless a contest actually takes place and a poll becomes necessary. His liability in this respect is, in fact, determined by precisely the same considerations as those which determine a Sheriff's liability in a county election.³

Let it, however, next be supposed that a contest is imminent, and that the Returning Officer desires to make full preparations for it. It has already been shown what, in English boroughs, in the absence of any arrangement with the candidates, are the rules for determining, and notifying, the number and situation of the polling stations, and for regulating their cost.⁴ It is, however, in English borough elections, competent to the candidates to authorise the Returning Officer, by a direct contract with him, and at their own expense, to exceed the statutory limits in the three last particulars.⁵

Supposing, then, that the above preparations have been made, the Returning Officer must, as in county elections, then give public notice of the situation of the various polling stations, and of the description of voters entitled to vote at each, and

Returning officer liable for expenses of booths, if a poll be not demanded.

Full preparation for a contest.

Number of parishes to be affixed to each polling station.

¹ 30 & 31 Vict. c. 102, s. 37, App. lxx., *ante*, p. 27.

² *Ante*, p. 28, 16 & 17 Vict. c. 68, s. 6, App. li.

³ *Ante*, p. 33.

⁴ *Ante*, p. 26.

⁵ 2 Will. IV. c. 45, s. 71, App. xxi.

CHAP. III

of the mode in which electors are to vote,¹ and in all borough elections in England, he must, in addition to giving public notice, cause to be affixed upon the most conspicuous part of each polling station, the names of "the parishes, districts, and parts," for the electors of which it is allotted.² Further, each of such polling stations must be provided, as before explained,³ with ballot boxes, ballot papers, pencils to mark the ballot papers with, stamping instruments, copies of the register, forms of directions for the guidance of the voters in voting, and sealing-wax.

Returning officer's staff.

The next duty of the Returning Officer is to appoint his staff.

Must conduct election in person.

In borough elections, the Returning Officer must conduct the election in person, for he is not, like the Sheriff, entitled in any case to appoint a Deputy, who may relieve him altogether of the duty of superintending the election.

His staff resembles that of the Sheriff.

But in other respects, the officers to be appointed by him are the same, and subject to the same enactments, as in the case of the Sheriff's staff in county elections.⁴

Vacancy in post of Returning officer.

If the post of Returning Officer for any borough is vacant from the fact of there being no person duly qualified to act as Returning Officer, the Sheriff of the county in which the borough is situate shall perform the duties of Returning Officer.⁵ The case of the death of the Returning Officer, after he has received the writ, but before he has had time to execute it, is not provided for by statute.⁶

Having thus explained the rules which regulate the preparations for all elections, in whatever part of the United Kingdom the county or borough may be, and having pointed out the peculiarities relating

¹ Ballot Act, rule 19, App. cv.

² Will. 4, c. 45, s. 68, App. xx.

³ *Ante*, p. 32.

⁴ *Ante*, p. 35.

⁵ 17 & 18 Vict. c. 57, App. li. *ante*, p. 14.

⁶ Unless 5 & 6 Will. 4. c. 76, s. 57, App. xxx., may be considered to meet it. See Rogers on Elections, ed. 12, p. 341.

to elections in England, we now proceed to explain the formalities which are peculiar to Scotch and Irish elections. CHAP. III.
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In Scotch Counties.] The preparations for an election in a Scotch county are made by the Sheriff, who must give notice of the election in the same form and manner, and make the same preparations as have been above described.¹ Notice of election.

The day and hour to be appointed by him in the notice of election are regulated by the rule above described² for county elections generally, except as regards the county of Orkney and Shetland, where the day for the election shall not be less than twelve nor more than sixteen days after that on which the writ is received.³ Time of election.

The place of election must be some convenient room in the county town; but the old Scotch Reform Act has specially provided, that in Clackmannan and Kinross, the place for holding the election shall be the town of Dollar; in Elgin and Nairn, the town of Forres; and in Ross and Cromarty, the town of Dingwall.⁴ And the Scotch Reform Act, 1868, has also specially provided that in Peebles and Selkirk the place for holding the election⁵ shall be the burgh of Peebles, and that the elections for counties mentioned in Schedule B of the Act shall be held at the towns severally mentioned in that schedule.⁶ Place of election.

The rules as to the mode, and hours, of publication of the notice of election are the same as have been above⁷ described, except that in the county of Notice of election, when and how published.

¹ *Ante*, pp. 22-25.

² *Ante*, p. 22.

³ Ballot Act, rule 58, App. cxii.

⁴ 2 & 3 Will. IV. c. 65, s. 29, App. xxv.

⁵ The expression in the Act is "the writ shall be proclaimed at the burgh of Peebles," but all Scotch elections ought, it appears, still to be commenced by publicly reading the writ; see 2 & 3 Will. IV. c. 65, s. 30, App. xxv.

⁶ 31 & 32 Vict. c. 48, s. 24, App. lxxiii.

⁷ *Ante*, p. 22.

CHAP. III — Orkney and Shetland, the Sheriff of Orkney, who is Returning Officer, must, in addition to giving notice in the manner above described, within twenty-four hours of receiving the writ, forward a precept to the Sheriff Substitute in Shetland, notifying the day appointed for the election; whereupon the latter officer is required, without delay, to announce such day by notices on the church doors.¹

Full preparations for a contest :

Such are all the preparations necessary where no contest is anticipated; but if a contest is expected, a Returning Officer in Scotland must make preparations for taking a poll precisely similar to those which have been described with regard to an election in England,² and he may by 41 & 42 Vict. c. 41, s. 3,³ in the event of more candidates being nominated than there are vacancies to be filled, require from the several candidates a deposit of security for the expense of taking a poll. It is also enacted, with regard to Scotland, that, "at any contested election, the Sheriff shall, if required by any of the candidates, on or *before* the nomination day, direct two or more booths, compartments, halls, rooms, or other places for polling, to be provided at each polling place,"⁴ that is to say, at each of the places set apart for polling in the appointed polling-districts of the county.⁵

Polling districts and places.

The duty of dividing a county into polling districts and appointing polling places is in Scotland entrusted to the Sheriff, who is required by the old Scotch Reform Act to divide his county into convenient districts for polling, following as nearly as possible the boundaries of parishes, baronies, or other known subdivisions, and to appoint a particular polling place for each district, which shall be

¹ 2 & 3 Will. IV. c. 65, s. 31, App. xxvi. Confirmed by Ballot Act, rule 61, App. cxiii.

² *Ante*, p. 24.

³ See App. *post*.

⁴ 16 Vict. c. 28, s. 4, App. xlviii.

⁵ 2 & 3 Will. IV. c. 64, s. 27; App. xxiv.; 16 Vict. c. 28, ss. 2, 3, App. xlvii.

most accessible to the voters in the district. No county is to have more than fifteen polling places, and they are to be so arranged that not more than 600 persons, or thereabouts, poll at each place.¹ By a later statute² the Sheriff is empowered, with the consent of the Queen's Advocate, to increase the number of polling places, so that not more than 300 electors vote at one place ; and in the event of his making this increase, he is to notify the same by advertisement in the newspapers. Further, it is enacted by the same statute that if this increase is objected to by the inhabitants of the county, or if they wish the number to be further increased, any number of them, not less than ten, may petition the Queen's Advocate on the subject.³

CHAP. III.

Increase of
number of
polling
places.

By the Ballot Act, as we have seen above,⁴ the Sheriff must provide sufficient polling stations for the accommodation of the electors entitled to vote at each polling place, and furnish them with compartments, so that there is, at least, one compartment for every 150 electors, but, in addition to this, if he be required by any of the candidates so to do, he must direct two or more booths, halls, rooms, or other places for polling in, to be provided at each polling place.⁵ No poll can, however, as we have already seen,⁶ be taken at any inn, hotel, tavern, public-house, or other premises licensed for the sale of beer, wine, or spirits ; or in any booth, hall, or room, or other place directly communicating therewith, unless by consent of all the candidates expressed in writing.⁷

Erection of
additional
polling
stations by
request of
candidate.Hire of pub-
lic-houses,
&c., for
polling in.

If the candidates can agree as to the terms, the polling stations may be hired or constructed by contract with the candidates ; but if they cannot

Expense of
erection of
polling
stations.

¹ 2 & 3 Will. IV. c. 65, s. 27, App. xxiv.

² 16 Vict. c. 28, s. 2, App. xlvii.

³ *Id.* ss. 2, 3, App. xlvii.

⁴ *Ante*, p. 26, and Ballot Act, rule 16, App. cv.

⁵ 2 & 3 Will. IV. c. 65, s. 27, App. xxiv.

⁶ *Ante*, p. 28.

⁷ 16 Vict. c. 28, s. 4, App. xlviii.

CHAP. III. agree, the Sheriff Clerk is to make the necessary arrangements, for which the candidates will be jointly and equally liable ; or, if either of them be proposed without his own consent, his proposer will be liable in his stead. But, in case of such non-agreement, the Sheriff Clerk is not to expend more than thirty pounds, under the above heads, in any one polling-place.¹

The rule above stated,² as to hiring a building, if possible, instead of erecting a booth, applies to Scotch counties ; but the consent of those who have control over it must be obtained,³ if it is proposed to use any rate-maintained room, in pursuance of the power to do so given by the Ballot Act.⁴

Sheriff's
staff.

The Sheriff may then proceed to appoint his Staff. He is not obliged to preside at any polling station in person ; but he may do so if he pleases,⁵ as we have seen above ;⁶ also, as we have seen, he must be represented by a Substitute at each polling-place at which he does not preside himself ; and he is empowered to name such officers at his own discretion, without observing the forms necessary in the appointment of ordinary Substitutes receiving salaries.⁷ The duties of a Substitute, or presiding officer, as he is now called, have been already described.⁸ The officer, whether Sheriff or Substitute, presiding at the poll, is entitled to a sum not exceeding three guineas a day from the candidates jointly ; unless any candidate has been proposed without his own consent, when his proposer is liable instead.⁹ By the Ballot Act every

Duties of
Substitute.

Pay of pre-
siding
officer and
his assist-
ants and
clerks.

¹ 2 & 3 Will. IV. c. 65, s. 40, App. xxvii.

² *Ante*, p. 26.

³ 31 & 32 Vict. c. 48, s. 26, App. lxxiii.

⁴ Ballot Act, s. 6, App. lxxxviii.

⁵ Ballot Act, rule 47, App. cxi.

⁶ *Ante*, p. 35, note 6.

⁷ 2 & 3 Will. IV. c. 65, s. 27, App. xxiv.

⁸ *Ante*, p. 36.

⁹ 2 & 3 Will. IV. c. 65, s. 40, App. xxvii.

assistant to a presiding officer is entitled to two guineas a day and every clerk to one guinea a day.¹ CHAP. III.

In addition to the liability for the expense of polling stations already mentioned,² each candidate—or, if anyone be proposed without his own consent, his proposer—is jointly responsible with the other candidates for the expenses incurred by the Sheriff, Sheriff's Clerks, or Town Clerks, in transmitting precepts, intimations, or other communications required by the above rules,³ and also for the expense of ballot boxes, ballot papers, stamping instruments, and other requisites for a parliamentary election. The candidates are also liable for the reasonable remuneration of presiding officers, assistants, and clerks, and for all other expenses properly incurred by the Returning Officer, and by Sheriff, Clerks, and Town Clerks, in carrying into effect the provisions of the Ballot Act.⁴

If the Sheriff to whom the writ is directed is sick or necessarily absent from any place where he ought, otherwise, to be performing any of the above duties, he may appoint a special Substitute to act for him in such place;⁵ and, in the event of no such appointment, his ordinary Substitute at the place must act instead. If the office of Sheriff be vacant by death or resignation, the ordinary Substitute at the head burgh of the shire, appointed by the late Sheriff, must fulfil the duties of the vacant office, until a successor be capable of acting in it.⁶

In Scotch Cities, Burghs, and Towns, and Districts of such.] In every city, burgh, or town, or district of such—and the word *burgh* will, in the following

¹ Ballot Act, s. 16 (5), App. xci.

² *Ante*, p. 34.

³ 2 & 3 Will. IV. c. 65, s. 40, App. xxvii.

⁴ Ballot Act, s. 16 (5), App. xci.

⁵ 2 & 3 Will. IV. c. 65, s. 42, App. xxviii.

⁶ 5 & 6 Will. IV. c. 78, s. 11, App. xxxi.

Candidates
liable for
incidental
expenses.

Incapacity
of Sheriff, or
vacancy in
his office.

Notice of
election

CHAP. III.

Day, hour,
and place of
election.

pages, unless the contrary is expressed, include each of these—the Sheriff, to whom the writ is directed, must give notice of the time and place of the coming election in the same form as has been above described.¹ The day, hour, and place for holding the election, and the number of days within which the notice must be given, is also regulated by the rules above mentioned,² with the exception, that the day to be fixed for holding an election for the burghs within the districts comprehending Kirkwall, Wick, Dornoch, Dingwall, Tain, and Cromarty, must be announced within three days after the receipt of the writ, and must be not less than ten or more than sixteen days after such receipt;³ also in the case of the district⁴ burghs, the place must be a convenient room in the town specified in Schedule L of the old Reform Act,⁵ and Schedule A of the Reform Act, 1868.⁶

Preparations
to be made
for contest.

The remarks that have already been made,⁷ with reference to the preparations to be made by the Returning Officer, apply to Scotch burghs as well as Scotch counties, except that the maximum of expense to be incurred in preparing booths or places for polling in, when the candidates cannot agree as to terms, is twenty pounds at each locality.⁸ The same rule as to public-houses, &c., applies as in Scotch counties.⁹

Polling dis-
tricts and
places.

The Town Clerk is the person whose duty it is to appoint polling places, and apportion out districts in burghs. Burghs are not to be divided

¹ *Ante*, p. 21.

² *Ante*, p. 44.

³ Ballot Act, rule 61, App. cxiii., and 2 & 3 Will. IV. c. 65, s. 28, App. xxiv.

⁴ The meaning of the expression “district boroughs” in Scotland is defined in Ballot Act, rule 60, App. cxiii.

⁵ 2 & 3 Will. IV. c. 65, ss. 28, 30, App. xxv.

⁶ 81 & 32 Vict. c. 48, s. 24, App. lxxiii.

⁷ *Ante*, p. 34.

⁸ 2 & 3 Will. IV. c. 65, s. 40, App. lxxii.

⁹ *Ante*, p. 51. 16 Vict. c. 28, s. 4, App. xlviii.

into polling districts unless they contain more than 600 voters, or thereabouts. If the number of electors exceeds 600, the Town Clerk is to divide the burgh into convenient polling districts, and appoint a polling place for each district.¹ But the Sheriff may, if required so to do by a candidate, or, if not so required, if it seem to him expedient, increase or alter the number, situation, or arrangement of the existing polling places and districts, "or parts thereof,"² so that not more than three hundred electors shall be allotted to poll in each booth or compartment.³ When any such alteration has been made, the Town Clerk must forthwith make up a list of the polling places as so modified, and affix copies to the doors of all the parish churches within the city, burgh, or town.⁴

CHAP. III.

The Sheriff, or his Substitute, must, on the requisition of any candidate, or of any elector who proposes, or seconds, a candidate, make further arrangements, so that there may be a polling booth or compartment for every hundred electors. The expenses incident upon such arrangements are to fall upon the person making the requisition.⁵ The Town Clerk is bound by the same rule as to hiring a building or room, instead of erecting a booth, which applies in English counties⁶ and may recover any expenses incurred by him, either in hiring rooms, or erecting booths, from the candidates, in the same way as the Sheriff Clerk.⁷

Sheriff may increase booths on requisition.

The enactments relating to the personal, or vicarious, superintendence of the Sheriff,—the pay of the officer presiding at the poll—the appointment, duties, and remuneration of Substitutes, and

Preparations in other particulars are the same as in Scotch counties.

¹ 2 & 3 Will. IV. c. 65, s. 27, App. xxiv.

² 5 & 6 Will. IV. c. 78, s. 3, App. xxxi.

³ As to the Sheriff's discretionary power of dividing a burgh into districts, see *dicta* of Lord Barcaple, *Greenock case*, 1 O. & H. 249.

⁴ 5 & 6 Will. IV. c. 78, s. 3, App. xxxi.

⁵ 5 & 6 Will. IV. c. 78, s. 4, App. xxxi.

⁶ *Ante*, p. 26.

⁷ 31 & 32 Vict. c. 48, s. 26, App. lxxiii.

CHAP. III. — poll-clerks—the copies of the registers, the liabilities of candidates, or their proposers, for incidental expenses—and the measures to be taken where the Sheriff is absent, or his office is vacant, are the same as in Scotch county elections.¹

Services of
officers in
relation to
writ, gra-
tuitous.

Rules as to
fees, &c.

In Ireland.] In treating of the preparations for Irish elections, it may be convenient to follow the plan adopted throughout the preceding portion of this chapter: namely, to consider them first, with regard to counties; and, secondly, with regard to boroughs. To both, however, the same general rule applies which has already been laid down,² respecting the gratuitous character of the services of persons engaged in making out, revising, delivering, returning, or executing, the writ.³ Moreover, the gift by, or on behalf of, any candidate, of any fee, reward or gratuity, to any Sheriff, Under Sheriff, Returning Officer, or his Deputy, Clerk of the Peace, or his Deputy, disables such candidate from sitting.⁴ The gift, or promise, by, or on behalf of, any candidate, of more than the fees allowed in Schedules A and B of 1 & 2 George IV. c. 58; or of any office, place, or employment, to any barrister, agent, inspector, or clerk, for doing any acts of, or concerning, the election, has a similar disabling effect.⁵ No persons, except those mentioned in Schedule A of the same statute,⁵ are entitled to any fee, or reward, for executing writs.

Notice of
election.

In Irish Counties.] In elections for Irish counties, the Sheriff must give notice of the election in the same way, and make the same preparations in the same way as have been above described with

¹ *Ante*, p. 53.

² *Ante*, p. 20.

³ 35 Geo. III. c. 29, s. 14, App. cli.; 4 Geo. IV. c. 55, s. 73, App. xvi.

⁴ 1 & 2 Geo. IV. c. 58, s. 3, App. xii.; 4 Geo. IV. c. 55, s. 73, App. xvi.

⁵ 1 & 2 Geo. IV. c. 58, s. 2, App. xii.

regard to elections for counties in England,¹ and the above-mentioned rules hold good with regard to the day, hour, and place to be appointed, and also as to the time of giving the notice.

CHAP. III.

As regards polling districts and polling places, it is enacted by the Ballot Act that such counties should be divided into polling districts, and polling places appointed for such districts at a Court of Quarter Sessions to be held on some day before November 1st, 1872,² or to be adjourned to some other day not later than December 1st, 1872.³ It is also enacted⁴ that if at any subsequent Quarter Sessions it appears to the Chairman and Justices there assembled that additional polling places are required, they may by resolution determine that at the next Quarter Sessions the necessity for such additional polling places shall be considered by them. The Clerk of the Peace is thereupon, within five days after the making of such resolution, to send a copy of it to the Chairman and each of the Justices, and to publish the same for two consecutive weeks in a local newspaper.⁵ The question

Polling districts and places.

¹ *Ante*, pp. 20-23.

² Ballot Act, s. 18 (1) (4), App. xcii. It may be observed that 13 & 14 Vict. c. 68, s. 2, App. xxxviii. which arranges the polling districts for the counties mentioned in sch. A. of that act is not repealed by the Ballot Act.

³ *Id.* s. 18 (4), App. xcii. It is further enacted by s. 18 (7) that the orders of the Courts of Quarter Sessions appointing these districts are to be sent to the Privy Council, who are to submit the same for confirmation to the Lord Lieutenant, which confirmation is to be made in the manner provided in sub-sections 8, 9, and 10 of s. 18 of the Ballot Act, and that the orders were not to be of any validity until they had been confirmed. In order to accelerate the confirmation of these orders a further act was passed in 1873 (36 Vict. c. 2, App. cl.) amending sub-sections 8, 9, and 10 of the Ballot Act, s. 18, and enacting that the Lord Lieutenant might confirm forthwith all or any of the orders of quarter sessions, making in them such variations as he may think fit, and that such confirmation shall make them valid and binding within the meaning and for the purposes of s. 18 of the Ballot Act.

⁴ *Id.* s. 18 (14).

⁵ *Id.* s. 18 (15).

CHAP. III. will then be considered at the next Quarter Sessions, and, if it is then decided that additional polling places are necessary, an order will be made in like manner, and subject to the same provisions, as to the making, confirming, and taking effect of the same, as those which regulated the orders made in the first instance at the Special Sessions held before November 1st, 1872.¹

Sheriff to
pay ex-
penses in
first in-
stance.

Statutory
cost of
booths :

In every contest, the preparatory expenses are, in the first instance, to be paid by the Sheriff.²

The statutory limit of the expense which the Sheriff may incur for using and fitting up a Court-house as a polling station (which the statute orders him to do if one is available) is three guineas,³ and five pounds, for any booth,⁴ which is not in a public building.⁵ The same rule as to hiring a building, if possible, instead of erecting a booth, applies as in Scotch counties;⁶ and there is no statutory restriction in Ireland as to holding the poll at an inn. Any houses or buildings hired, are "subject to the same limitations, as to expense."⁷ Rate-aided rooms may also be used free of charge as above described,⁸ with this proviso, however, that the power of using school-rooms free of charge shall not in Ireland apply to any school adjoining or adjacent to any church or other place of worship, or to any school connected with a nunnery or other religious establishment.⁹

Recoverable
from candi-
dates.

If a poll becomes necessary, and no security has been given to the Returning Officer by the several

¹ *Id.* s. 18 (16).

² 1 Geo. IV. c. 11, s. 26; App. xii.

³ 38 & 39 Vict. c. 84, sch. 1, App. *post.*

⁴ By Ballot Act, s. 15, App. xc. the term "polling booth," when used in former enactments, is to be deemed to include a polling station.

⁵ 13 & 14 Vict. c. 63, s. 19, App. xlii. and Ballot Act, s. 17 (4), App. xcii.

⁶ *Ante*, p. 52; 31 & 32 Vict. c. 49, s. 10, App. lxxiv.

⁷ 13 & 14 Vict. c. 63, s. 19, App. xlii. and 38 & 39 Vict. c. 84, sch. 1, App. *post.*

⁸ *Ante*, p. 26.

⁹ Ballot Act, s. 17 (3), App. xci.

candidates for the necessary expenses of taking a poll those expenses are recoverable by the Sheriff, in equal proportions, from the several candidates; or, if any candidate is proposed without his own consent, from his proposer.¹ Of course it is competent to the candidates to sanction any greater outlay, by express contract with the Sheriff.

CHAP. III.

With regard to the appointment of the Sheriff's staff, the same rules hold good as have been above described with regard to counties in England.² By the Ballot Act³ it is expressly enacted that a presiding officer need not be a freeholder of the county as Deputy Returning Officers were formerly obliged to be.⁴ Formerly, also the Sheriff, if required by a candidate, might appoint interpreters to translate such oaths, affirmations, questions, and answers, as are required to be taken, made, asked, or given;⁵ this enactment is now repealed by the Ballot Act.

Sheriff's staff:

If the Sheriff dies, or becomes severely ill, during a poll, it is the duty of the first sworn Deputy—or, should he be in the like evil case, of the second; and so on, through the rest⁶—(on pain of forfeiting five hundred pounds to any one who sues for it) to proceed with the poll, and to act, during the Sheriff's incapacity, for all purposes of the election, with the same authority as belonged to the Sheriff himself. Before proceeding, however, to execute

First sworn Deputy, if the Sheriff dies, or disabled, to act in his stead:

¹ As to this, see 38 & 39 Vict. c. 84, s. 2, App.

² *Ante*, p. 35.

³ Ballot Act, rule 63, App. cxiv.

⁴ 60 Geo. III. & 1 Geo. IV. c. 11, s. 21, which is now repealed by the Ballot Act.

⁵ *Id.* s. 9.

⁶ This rule applies to counties of cities or towns, with the following modification:—In such places, if there are two returning officers, and one dies or becomes severely ill under the circumstances mentioned in the text, his duties devolve on his colleague; and the first sworn deputy does not act as returning officer, unless both the principals become so incapacitated; 4 Geo. IV. c. 55, s. 67, App. xv.

CHAP. III. — these vicarious functions, the Deputy must take the oath required to be taken by the Sheriff at the commencement of the poll.¹

Commissioners for administering the elector's oath :
Sheriff's assessor :

The Sheriff may also, if he thinks fit, appoint a commissioner, or commissioners, for the purpose of administering the elector's oath or affirmation.²

It is advisable that the Sheriff should also appoint an assessor to assist him in deciding any questions of law that may arise with regard to the election ;³ but, if he does appoint one, it is expressly provided, that the candidates shall not be liable to contribute towards the fee to be given to such assessor.⁴

Constables to prevent personation :

Finally, the Sheriff is bound, as in English elections,⁵ to provide a sufficient attendance of constables, or peace officers, in each booth, or place for polling in, for the purpose of taking into custody persons charged with personating voters.⁶ And he has a discretionary power to summon all constables, bailiffs, and other peace-officers, to attend the polling-places, to keep the peace, "and to perform such other things as shall be assigned to *him*" [*qy.* them?] by the Sheriff; and to appoint any number of special constables to assist them. Every constable, bailiff, or peace-officer, so employed, is to be

Their pay :

¹ 1 Geo. IV. c. 11, s. 24, App. xi. As to counties of cities or towns, 4 Geo. IV. c. 55, s. 67, which requires that the oath be taken before *two* justices, and not *one* only, as the Ballot Act, sch. 1, par. 54, enacts.

² 13 & 14 Vict. c. 69, s. 88, App. xliii.

³ In the *Mayo case*, 2 O. & H. 194, the sheriff had not appointed an assessor, and in reversing a decision of the sheriff with regard to a point of law which had arisen as to receiving the nomination of one of the candidates, Morris, J., said, "when sheriffs allow themselves to be influenced into making such ludicrous decisions as this, it ought to be a caution to them to fortify themselves with the advice and assistance of counsel."

⁴ 13 & 14 Vict. c. 68, s. 21, App. xlii.

⁵ *Ante*, p. 41. See also *Gloucester case*, 2 O. & H. 62, cited *ante*, p. 41, note 5.

⁶ 13 & 14 Vict. c. 69, s. 97, App. xlvii. As to the offence of personation, see *post*, p. 95.

paid five shillings a day for attending ; but is to forfeit his office and all salary due in respect of it, if he neglects to attend during the whole election, and to obey the Sheriff's lawful commands.¹ Persons entitled to vote at the election are not compellable to serve as special constables "unless they shall consent so to do."²

CHAP. III.

Voters not
liable to
serve as
special
constables.

In Irish Boroughs.] As we have already seen³ with regard to boroughs in England, the writ for the election of a member for a borough in Ireland is to go direct to the Returning Officer himself, unless he and his deputy happen to be absent ; in which case it is to go to the Sheriff, who becomes the Returning Officer *pro hac vice*.⁴

Writ to go
direct to
Returning
Officer.

The general rules above described with regard to boroughs in England,⁵ as to giving notice of election, and as to the time and place for holding the election, apply to all Irish boroughs without any exceptions.

Notice of
election

There is now no special enactment⁶ with regard to dividing any Irish boroughs, other than Belfast, Cork, Dublin, Limerick, and Waterford, into polling districts. As to these five boroughs it is enacted⁷ that they are to be divided into polling districts, and that each of the municipal wards shall be a separate polling district. It is also enacted⁸ that at every contested election for any of these five boroughs polling stations are to be erected or provided at or near the place where the

Polling dis-
tricts :

¹ 60 Geo. III. & 1 Geo. IV. c. 11, s. 22, App. xi. See also 1 & 2 Geo. IV. c. 58, sch. A., App. xiv.

² 17 & 18 Vict. c. 102, s. 8, App. liv.

³ *Ante*, p. 15.

⁴ 25 & 26 Vict. c. 92, s. 3, App. lxiv.

⁵ *Ante*, pp. 43, 44.

⁶ The provisions of 13 & 14 Vict. c. 68, ss. 12-14 are repealed by the Ballot Act, and it is enacted (s. 17 (2)) that the provisions of s. 5 of the Ballot Act with regard to dividing boroughs into polling districts shall not apply to boroughs in Ireland.

⁷ 13 & 14 Vict. c. 68, s. 5, App. xxxviii.

⁸ *Ib.* s. 9, App. xl.

CHAP. III. election for the borough is usually held, at which stations all freemen are to vote, and that all persons entitled to vote in respect of any property qualification, or as occupiers of any lands, tenements, or hereditaments, shall vote at polling stations to be erected or provided within the ward upon the list of which their names shall appear, and not elsewhere.

Polling-stations and other necessities for the poll.

Expenses of election :

The rules as to providing a sufficient number of polling stations and of supplying at each polling station the officers and things necessary for conducting the poll, are the same for Irish boroughs as those above stated with regard to boroughs in England.¹ The Returning Officer's liability, in the first instance, for expenses, is the same as in Irish counties,² and the same enactments as have already been described, under the head of preparations for Irish county elections, apply in borough elections to the outlay on booths, or places for polling in :³ to the hiring, if possible, of buildings instead of erecting booths,⁴ and to the use, gratis, of certain rate-aided school-rooms ;⁵ to the ultimate liabilities of candidates, or their unauthorised proposers ;⁶ and to the Returning Officer's Staff,⁷ except that with regard to borough elections the enactment is unrepealed, by which it is provided that if any Deputy, Sheriff, Poll Clerk . . . or other officer, constable, bailiff, or peace-officer, absent himself from his duty during any part of the time that the poll is kept open, he shall forfeit all compensation for his attendance during such election, and the Returning Officer may, in the case of the absence,

¹ *Ante*, p. 46.

² 1 Geo. IV. c. 11, s. 26, App. xii., and see *ante*, p. 58.

³ 13 & 14 Vict. c. 68, s. 19, App. xlii.

⁴ 31 & 32 Vict. c. 49, s. 10, App. lxxix.

⁵ Ballot Act, ss. 6-17 (3), App. lxxxvii., xci.

⁶ *Ante*, p. 60.

⁷ The enactment of 60 Geo. III. & 1 Geo. IV. s. 42, which was similar to this and applied to county elections, is repealed by the Ballot Act.

neglect, misconduct, or insufficiency of any such officer, immediately remove him and appoint any other person in his place.¹ CHAP. III.

The measures to be taken if the Returning Officer dies or becomes incapable of acting during the poll are the same as for Irish county elections.² Death or incapacity of returning officer.

¹ 4 Geo. IV. c. 55, s. 63, App. xv.

² 60 Geo. III & 1 Geo. IV. c. 11, s. 24, App. xi., and see *ante*, p. 59.

CHAPTER IV.

PROCEEDINGS AT AND AFTER ELECTION : NOMINATION : POLL : RETURN : ELECTION EXPENSES.

Nomination Day.] The proceedings of an election,¹ whether parliamentary or municipal, commence with the nomination of candidates, but it may be here observed that the enactments of the Ballot Act with regard to nominations apply only to parliamentary, and not to municipal,¹ elections.

Proceedings This nomination is no longer made *viva voce* in public,² as it formerly was, but must now be made in writing,³ and takes place, as we have seen,⁴ in some convenient room, the situation of which is specified in the notice of election. At that room

¹ The enactments of the Ballot Act apply only to "the poll at a contested municipal election" (see s. 20, App. xcvi.). "The nomination at a municipal election and all proceedings with regard to it are to be conducted as before, *i.e.* according to the provisions of 5 & 6 Will. IV. c. 76, and 22 Vict. c. 35." Per Brett, J., in *Northcote v. Puleford*, L. R. 10 C. P. 488. The form of nomination paper now used in a municipal election is given in 38 & 39 Vict. c. 40, sch. 1.

² No public formality of any kind is now necessary at a nomination in England or Ireland, as s. 7 of the Durham Act (3 Geo. III. c. 15) which required that act to be read publicly in certain English boroughs, is repealed. So also are the particular acts which related to New Shoreham, Cricklade, and Aylesbury, and which used to be read before the nomination at those boroughs. In Scotland, however, the sheriff is still required by 2 & 3 Will. IV. c. 65, ss. 29, 30, App. xxv. publicly to proclaim the writ on the day of election by reading it.

³ Ballot Act, s. 1, App. lxxxiii.

⁴ *Ante*, p. 23.

the Returning Officer must be in attendance on the day and at the hour specified in the notice, to receive any nomination papers that may be delivered to him.¹ No person other than a candidate nominated, the proposer and seconder of that candidate, and one other person, is entitled to be present in that room during the two hours appointed for the election, except it be some one who is there for the purpose of assisting the Returning Officer.²

CHAP. IV.
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The Returning Officer is no longer required to take any oath before the commencement of the proceedings.³ The Returning Officer must remain in attendance in that room during the two hours specified in the notice, and for one hour after.⁴

During these two hours candidates may be nominated⁵ by delivering to the Returning Officer a nomination paper in the form above described,⁶ subscribed by two registered electors as proposer and seconder, and by eight other registered electors as assenting to the nomination.⁷ All nominations must be in writing,⁷ and each candidate must be nominated upon a separate nomination paper.⁸ The nomination papers must be delivered to the Returning Officer during the two hours appointed for the election and not afterwards.⁹ They may be handed in either by the candidate himself or by his proposer or seconder,⁷ but by no other person.¹⁰ No

¹ Ballot Act, rule 4, App. ciii.

² *Id.* rule 8, App. ciii.

³ *Id.* rule 54, App. cxii.

⁴ *Id.* rule 4, App. ciii.

⁵ There are no conditions precedent to a right to be nominated as a candidate: for instance, the returning officer has no right to insist upon a candidate depositing a certain sum of money on account of the election expenses; *Davies v. Lord Kensington*, L. R. 9 C. P. 720; or insisting upon the appointment of an expense agent, *Mayo*, 2 O. & H. 191.

⁶ *Ante*, p. 25.

⁷ Ballot Act, s. 1, App. lxxiii. By s. 3 it is a misdemeanour to forge or fraudulently deface or destroy any nomination paper, App. lxxv. ⁸ *Id.* rule 5, App. ciii.

⁹ Ballot Act, rule 8, App. ciii. Formerly a person might be nominated after the poll had commenced.

¹⁰ This was so decided with regard to the provision in s. 1

CHAP. IV. person nominated after the expiration of the two hours appointed will, in the event of a contest, be entitled to have their names inserted in the ballot papers.¹ Each candidate must be described in the nomination paper in such manner as in the opinion of the Returning Officer is calculated to sufficiently identify him;² the description shall include his names,³ his abode, and his rank, profession, or calling, and his surname shall come first in the list of his names.⁴ The Statute requires the Christian name and surname of the candidate to be stated in full in the nomination paper,⁵ but there is no such direction as to the way in which the names and places of abode of the proposers and seconders are to be stated.⁶ Immediately after a nomination paper has been delivered to the Returning Officer, notice of the person nominated, and of the names of his proposer and seconder, is to be placarded in a conspicuous place outside the building in which the room appointed for the election is situate.⁷

Objections to nomination papers, when to be made.

All objections to nomination papers,⁸ whether made by the Returning Officer himself or some other person, must be made before the expiration

of the Municipal Election Act, 1875, in *Monks v. Jackson*, L. R. 1 C. P. D. 683.

¹ Ballot Act, rule 12, App. civ.

² *Id.* rule 6, App. ciii.

³ Where a candidate is an Irish peer or is commonly known by some title, he may be described by his title as if it were his surname; Ballot Act, sch. 2, note, App. cxviii.

⁴ Ballot Act, rule 6, App. ciii.

⁵ This was so decided with regard to the provision in s. 1 of the Municipal Elections Act, 1875, in *Mather v. Brown*, L. R. 1 C. P. D. 596: which case was cited with approval by Denman, J., in *Soper v. Mayor of Basingstoke*, L. R. 2 C. P. D. 444, but in *Howes v. Turner*, L. R. 1 C. P. D. 670 it was intimated that Frederick written as Fredk. was sufficient.

⁶ As to this see *Soper v. Mayor of Basingstoke*, L. R. 2 C. P. D. 440.

⁷ Ballot Act, rule 11, App. civ.

⁸ If there is any doubt about the validity of a nomination paper it is advisable to nominate the candidate over again, for "a bad nomination cannot avoid a good nomination of the same person." Per Brett, J., *Northcote v. Pulsford*, L. R. 10 C. P. 484.

of the two hours appointed for the election, or within one hour afterwards;¹ but objections on the ground of insufficiency of description, or of the description not being in compliance with rule 6 of the Ballot Act, must be made at or immediately after the time of the delivery of the nomination paper, and if not made then, shall not be allowed or deemed valid.² Every candidate whose nomination paper has been delivered to the Returning Officer during the two hours appointed, and is not objected to before the expiration of one hour after those two hours, and who has duly given security for his share of the election expenses,³ shall be deemed to have been nominated in manner provided by the Act, and, in the event of a poll, shall be entitled to have his name inserted in the ballot papers.⁴

Objections as to the reception of nomination papers are to be decided by the Returning Officer,⁵ and if he disallows the objection, his decision shall be final; if, however, he allows an objection, and in consequence rejects the nomination of a candidate, his decision shall be subject to reversal on petition questioning the election or return.⁶ The Returning Officer has no power to decide any objection as to the qualification of candidates,⁵ such an objection therefore can only be decided by the Election Tribunal.

Objections
how to be
decided.

Since the passing of the Ballot Act there have

Objections to
nomination

¹ Ballot Act, rule 12, App. civ.

² *Id.* rule 6, App. ciii.

³ In accordance with 38 & 39 Vict. c. 84, s. 3, as to England and Ireland; and by 41 & 42 Vict. c. 41, s. 3, as to Scotland; see further as to this *post*, p. 69.

⁴ Ballot Act, rule 12, App. civ.

⁵ Per Archibald, J., in *Hewes v. Turner*, L. R. 1 C. P. D. at page 681. In *Monks v. Jackson*, L. R. 1 C. P. D. 683, an objection to a nomination paper on the ground that it had not been handed in by the proper person was held to be cognizable by the returning officer.

⁶ Ballot Act, rule 13, App. civ. See *Davies v. Lord Kensington*, L. R. 9 C. P. 720, and *Mayo case*, 2 O. & H. 191.

CHAP. IV.
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made but
not held
valid.

been three cases in which Returning Officers have refused to receive nominations, but in all three cases the decision of the Returning Officer has been reversed by the Court. The grounds on which the nominations were refused were as follows. In the Haverfordwest case,¹ the Returning Officer refused to receive the nomination of a candidate, because the candidate declined to deposit with him a sum of money on account of election expenses. "The Sheriff," said Lord Coleridge, C.J., in giving judgment, "is not entitled to impose the payment or deposit of a sum for election expenses, as a condition precedent to putting a proposed candidate in nomination."² In the Mayo case,³ the objection made to the nomination and allowed by the Returning Officer was, that at the time of nomination the proposed candidate had not appointed an agent for election expenses. In the South Renfrew case in Canada, it appeared that, by the Law of Canada, it is required that the nomination paper of each candidate should be subscribed by twenty-five electors; twenty-four of the subscribers were electors but one was not, on this ground the Returning Officer declined to receive the nomination paper, but the Election Court held that he had acted wrongly in so doing. "The nomination paper," said the Court, "was formally on its face correct, and it was honestly believed by the petitioner to be correct when handed in. . . . I think therefore, that the defect in this case was one to which the Returning Officer should not have yielded."⁴

Presence or
consent of
candidate
not neces-
sary.

A nomination does not require for its validity the presence,⁵ or even the consent, of the candidates, but, as we have already seen, if a candidate is

¹ *Davies v. Lord Kensington*, L. R. 9 C. P. 720.

² *Ib.* p. 726.

³ 2 O. & H. 191.

⁴ The case was fully argued, and the arguments and judgment are reported at length in *South Renfrew Election Petition*, 11, *Canada Law Journal*, New Series, p. 47.

⁵ Ballot Act, s. 1, App. lxxxiii.

nominated without his consent, the persons by whom his nomination is subscribed will be jointly and severally liable for his share of the election expenses.¹

CHAP. IV.

A candidate may, during the two hours appointed for the election, but not afterwards, withdraw from his candidature by giving notice to that effect, signed by him, to the Returning Officer;² and if a candidate has been nominated in his absence out of the United Kingdom, his proposer may withdraw his nomination by a written notice signed by him and delivered to the Returning Officer, together with a written declaration of the absence of the candidate.³

Withdrawal
of nomination.

At the end of the two hours appointed for the nomination the Returning Officer is to declare how many candidates have been nominated,⁴ and, if no arrangement has been made previously as to the expenses of holding the election, he may then require the nominated candidates to give security for these expenses.⁵ The maximum amount of security which may be required by a Returning Officer in England or Ireland, if the election is contested, is stated in the third schedule of 38 & 39 Vict. c. 84,⁶ and by Returning Officer in Scotland in the schedule of 41 & 42 Vict. c. 41.⁶ This security is to be apportioned equally among the candidates nominated.⁴ If the election is not contested, then only

Security for
election ex-
penses to be
given if re-
quired.

¹ As to England and Ireland, 38 & 39 Vict. c. 84, s. 2; also as to England, 2 Will. IV. c. 45, s. 71, App. xxi.; as to Scotland, 2 & 3 Will. IV. c. 65, s. 40, App. xxvii.; and as to Ireland, 13 & 14 Vict. c. 68, s. 19, App. xlii.

² If a nomination paper has been once duly handed in, merely taking it away again for the purpose of making it more correct, but without any intention to withdraw it, would not affect the validity of the nomination. Per Brett, J., in *Hoves v. Turner*, L. R. 1 C. P. D. at page 678.

³ Ballot Act, s. 1, App. lxxxiii.

⁴ 38 & 39 Vict. c. 84, s. 3 (1), as to England and Ireland; and 41 & 42 Vict. c. 41, as to Scotland.

⁵ App. post.

⁶ App. post.

CHAP. IV. — one-fifth of that maximum may be required.¹ This security need not necessarily be given by the candidates themselves, but may be tendered on behalf of a candidate by any person, no matter who.² It may be given by deposit of any legal tender or of any country bank notes which are commonly current in the place for which the election is held ; it may also be given, with the consent of the Returning Officer, in any other manner that may be agreed upon.³ This security must be given within one hour after the two hours allowed for the nomination,⁴ and if any candidate has not, after he has been required to do so, given his proportionate part of the security, his nomination will be deemed to be *ipso facto* withdrawn.⁵

Election
when no
contest :

If no more candidates are nominated than there are vacancies to be filled, and the proper amount of security for the expenses of the election is duly given by the candidate or candidates as above explained, the Returning Officer, at the expiration of one hour after the two hours appointed for the election, is forthwith to declare the candidates who stand nominated to be elected,⁶ to give public notice of their names, in the manner prescribed by the Ballot Act,⁷ and to return their names to the Clerk of the Crown in Chancery.⁸ But if more candidates stand nominated than there are vacancies to be filled, the Returning Officer, at the expiration of the hour, is to adjourn the election for the purpose of taking a poll.⁹

Notices to
be given if

As soon as practicable after this adjournment, the

¹ See note to schedules of last mentioned Acts.

² *Ib.* s. 3 (4).

³ *Ib.* s. 3 (5).

⁴ *Ib.* s. 3 (2).

⁵ *Ib.* s. 3 (3).

⁶ Ballot Act, s. 1, App. lxxxiii.

⁷ *Id.* rule 46, App. cxi.

⁸ Or in Ireland to the Clerk of the Crown and Hanaper. See Ballot Act, rule 62, App. cxiii.

⁹ Ballot Act, s. 1, App. lxxxiii.

Returning Officer must give the following public notices,¹ viz :

CHAP. IV.

- (1) Notice of the day on which the poll will be taken.² election is contested
- (2) Notice of the names of the candidates described as in their respective nomination papers, and of the names of persons who subscribed the nomination paper of each candidate.
- (3) Notice of the order in which the names of the candidates will be printed in the ballot papers.

In the case of a borough election, these notices will be published in manner prescribed for publishing all notices required to be given under the Ballot Act;³ but in the case of a county election the Returning Officer, in addition to publishing them in the above-mentioned way, must deliver to the Post-Master of the principal post-office of the town in which the place of election is situate, a paper, signed by himself, containing the names of the candidates nominated, and stating the day on which the poll will be held. This information the Post-Master must forward by telegraph, free of charge, to the several postal telegraph offices situate in the county for which the election is to be held, to be published forthwith at each such office in the manner in which post-office notices are usually published.⁴ Publication of notices.

If after⁵ the adjournment of the election for the purpose of taking a poll, and before the commencement of the poll, but not afterwards, any of Death of candidate after nomination and before poll.

¹ Ballot Act, rule 9, App. ciii.

² The returning officer will have already given notice of a day for taking the poll on (*ante*, p. 21), and it is to be presumed that he is not at liberty in this second notice to name any day other than that which he previously named.

³ *Ante*, p. 22. Ballot Act, rule 46, App. cxi.

⁴ Ballot Act, rule 9, App. ciii.

⁵ It may be remarked that there is no statutory provision as to what is to be done if a candidate dies before the adjournment.

CHAP. IV.

the candidates who have been nominated die, the Returning Officer must countermand notice of the poll, and all the proceedings in reference to the election must then be commenced afresh in all respects as if the writ had been received by the Returning Officer on the day on which proof was given him of such death. No fresh nomination, however, will be necessary in the case of any candidate who stood nominated at the time of the countermand of the poll.¹

In every election in the United Kingdom the Returning Officer must, on the adjournment of the election for the purpose of taking the poll, at once make preparations for a contest, if these have not already been made.²

Such are all the forms which have necessarily to be observed on the day of nomination, and after the adjournment for the purpose of taking the poll. There is, however, one other proceeding which takes place before taking the poll, which must be noticed here, and that is the appointment of agents by the candidates for certain special purposes.

Appoint-
ment of
agents by
candidates.

It is usual for candidates to appoint agents for three different purposes, (1) for expenses of the election ;³ (2) to detect personation ;⁴ (3) for counting the votes.⁵ For the last two purposes it is not compulsory to appoint agents, and it is competent for candidates themselves to undertake the duties which an agent if appointed would have per-

¹ Ballot Act, s. 1, App. lxxxiii.

² See as to such preparations, *ante*, p. 22. See also Home Office Abstract, par. 18, App. cxl.

³ 26 Vict. c. 29, s. 2, App. xlv. If a candidate fails to appoint such an agent, the returning officer cannot refuse to accept his nomination, *Mayo*, 2 O. & H. 191.

⁴ 6 Vict. c. 18, s. 85, App. xxxiv. as to England, and 13 & 14 Vict. c. 69, s. 92, App. xlv. as to Ireland. There was no enactment for Scotland, prior to the Ballot Act, as to personation, but rule 59 of the Ballot Act authorises candidates to appoint agents to attend at the polling stations.

⁵ Ballot Act, rule 31, App. cvii.

formed, or to assist his agent in the performance of such duties, and to be present at any place at which his agent may, in pursuance of the Ballot Act, attend.¹ But for the first purpose the Act is imperative; it provides that no payments, except in respect of the personal expenses of a candidate, and no advance, loan, or deposit, shall be made by, or on behalf of, any candidate at an election, before, or during, or after such election, otherwise than through an agent or agents whose names and addresses have been declared in writing to the Returning Officer on or before the day of nomination, and any person who makes any such payment, advance, loan, or deposit, otherwise than through such agents, shall be guilty of a misdemeanor. All agents, therefore, for election expenses should be appointed, and their names and addresses declared in writing to the Returning Officer, and published by him on or before the day of nomination.²

CHAP. IV.

For election expenses.

An agent to detect personation may be appointed at any time previous to the time fixed for taking the poll; and, when appointed, notice in writing must (in English and Irish elections) be given to the Returning Officer, or his deputy, of his name and address.³ These agents are also entitled to be present at the voting of illiterate or incapable voters.⁴ They are to make the statutory declaration of secrecy,⁵ and are expressly prohibited from interfering with the voters or applicants for ballot papers, from attempting to look at the ballot papers, or obtain information as to how any vote is given, and from communicating to any person any information they may have obtained about any vote, or the number of any ballot paper.⁶ It will

To detect personation.

¹ Ballot Act, rule 51, App. cxi.

² 26 Vict. c. 29, s. 2, App. xlv.

³ 6 Vict. c. 18, s. 85, App. xxxiv. as to England, and 13 & 14 Vict. c. 69, s. 92, App. xlv. as to Ireland; there is no such provision as to Scotland.

⁴ Ballot Act, rule 26, App. cvi.

⁵ *Ib.* rule 54, App. cxii.

⁶ *Ib.* s. 4, App. lxxxv.

CHAP. IV. be the duty of the presiding officers to see that the agents conform to the directions of the Ballot Act, and to remove them if they misconduct themselves.¹

To attend at
counting
votes.

The name or address of any agent appointed to attend the counting of the votes must be transmitted to the Returning Officer one clear day at the least before the opening of the poll, and the Returning Officer may refuse to admit an agent to see the votes counted, if his name and address have not been so transmitted.²

Declaration
of secrecy to
be taken by
agent.

Any agent who is authorised to attend at a polling station or at the counting of the votes is required to make the statutory declaration of secrecy prescribed by the Ballot Act in the presence either of a Justice of the Peace or of the Returning Officer.³ Any agent who is guilty of infringing the secrecy of the Ballot is liable to six months' imprisonment with hard labour.⁴

Appoint-
ment of fresh
agent.

If an agent appointed either to attend the polling station, or at the counting of the votes, dies, or becomes incapable of acting, the candidate may, if he please, appoint another agent in his place, and shall forthwith give to the Returning Officer notice in writing of the name and address of the agent so appointed.⁵ If the agent for election expenses dies or becomes incapable, the candidate has no option, but is required forthwith to appoint a fresh agent.⁶

¹ Ballot Act, s. 9, App. lxxxviii.

² *Ib.* rule 52, App. cxi.

³ *Id.* rule 54, App. cxii. If a candidate undertakes the duties of agent, as he may do if he pleases (*ante*, p. 72), he is not obliged to take this statutory declaration; but if, having undertaken these duties himself, he contravenes the secrecy enjoined by s. 4 of the Ballot Act, he is liable to be punished in the same way as an agent would be. Per Brett, J., in *Clementson v. Mason*, L. R. 10 C. P. 213.

⁴ Ballot Act, s. 4, App. lxxv. As to the effect of an agent infringing the secrecy of the ballot, see dicta of Mellor, J., *Bolton*, 2 O. & H. 141-144.

⁵ *Id.* rule 53, App. cxii.

⁶ 26 Vict., c. 29, s. 2, App. lxv.

It is a misdemeanour for any Returning Officer, or his Deputy, or any partner, or clerk of either of them, to act in any English, or Irish constituency as agent for a candidate for any purpose,¹ and no person may be appointed by a Returning Officer for the purposes of an election who has been employed by any other person in or about the election.² There is a similar enactment as to Scotland,³ and any person who contravenes that enactment is liable to be sued for the penal sum of £500.⁴

CHAP. IV.
Returning
Officer, De-
puty, part-
ner, or clerk
may not act
as agent.

Moreover, if on the trial of any election petition, any candidate at an election for any county or borough of the United Kingdom is proved to have personally engaged as a canvasser, or agent for the management of the election in question, any person who, to the candidate's knowledge, had, within seven years before such engagement, been found guilty of any corrupt practice by any competent tribunal, or reported guilty of any corrupt practice by a Committee of the House of Commons, or by the report of any judge⁵ adjudicating on an election petition, or by the report of commissioners appointed under 15 & 16 Vict. c. 57, the election of such candidate will be void.⁶ A *candidate*, for the purposes of this enactment, means any person elected to serve in Parliament, or who has been

Appoint-
ment of
scheduled
briber as
agent.

¹ (England) 30 & 31 Vict. c. 102, s. 50, App. lxxii. ; (Ireland) 31 & 32 Vict. c. 49, s. 13, App. lxxix. ; which statutes are made to apply to all officers appointed in pursuance of the Ballot Act by ss. 11 & 17 (3) of that Act.

² Ballot Act, rule 49, App. cxi.

³ 2 & 3 Will. IV., c. 65, s. 36, App. xxvii.

⁴ *Ib.* s. 38, App. xxvii.

⁵ In reply to a question put to him in the House of Commons, Feb. 21, 1873, Hansard ccxiv. 788, the Attorney-General said that, if a person had been reported by a judge and afterwards tried by a jury for the same corrupt practice and acquitted, the effect of the judge's report would remain (notwithstanding his acquittal by the jury), and would disqualify him for seven years under Parl. El. Act, s. 44, from acting as canvasser or agent for the management of an election.

⁶ Parl. El. Act, 1868, s. 44. As to the meaning of the expression "agent for the management of an election," see dicta of Blackburn, J., in *North Norfolk case*, 1 O. & H. 238, and as to the meaning of "personally engaged," see per Black-

CHAP. IV. nominated as, or declared himself, a candidate at an election.¹

Agent may not vote.

No person who within six months of an election has been retained, hired, or employed, for reward, for any purposes of the election, by or on behalf of any candidate, as agent, canvasser, clerk, messenger, or the like, may vote at the election ; if he does so, he becomes criminally responsible,² and on a scrutiny one vote may be struck off for every such agent who has voted.³

Service of notice upon agent for counting votes.

If a Returning Officer has occasion to send any notice to the agent of a candidate appointed to attend the counting of the votes, it will be sufficient service of the notice if the Returning Officer delivers such notice at, or sends it by post to, the address of the agent which has been transmitted to the Returning Officer in pursuance of the provision of the Ballot Act above stated.⁴

Adjournment of nomination on account of riot. In England.

When the day for the nomination has once been fixed, the proceedings can only be adjourned for one reason, and that is, on account of riots.⁵ In English elections, if the proceedings, either at the nomination or the poll, are interrupted or obstructed by riot or open violence, the Returning Officer, or his Deputy, must adjourn such proceedings, at the particular place or places where the interruption or obstruction occurs, till the

burn, J., in last case, per Keating, J., in *Norwich case*, 2 O. & H. 40, per Keogh, J., in *Galway case*, 2 O. & H. 52, and Lawson, J., in *Galway case*, 2 O. & H. 197.

¹ Parl. El. Act, 1868, s. 3.

² (England) 30 & 31 Vict. c. 102, s. 11, App. lxviii.; (Scotland) 31 & 32 Vict. c. 48, s. 8, App. lxxiii.; (Ireland) 31 & 32 Vict. c. 49, s. 8, App. lxxviii.

³ Ballot Act, s. 25, App. xcix.

⁴ *Id.* rule 52, App. cxi.

⁵ We shall see *infra*, p. 78 note 5, what course the returning officer ought to take if, when the day fixed for taking the poll arrives, the preparations are not complete, and it would seem that he ought to adopt a similar course if for any reason other than riots the nomination could not be held on the day fixed for it.

following day; unless that be Sunday, Good Friday, or Christmas Day, when he must adjourn them till the day following. Moreover, if necessary, he must further adjourn the proceedings till the interruption, or obstruction, shall have ceased. The day on which the business of the nomination is concluded is, in these circumstances, to be deemed the day fixed for election: and the subsequent arrangements as to the commencement of the poll are to be made accordingly. Whenever the *poll* is so adjourned, at any particular place or places, the day is not to be reckoned as the day of polling, as to such place, within the meaning of 5 & 6 Will. IV. c. 36; and any Returning Officer's Deputy, or Substitute, making the adjournment, must forthwith give notice to the Returning Officer himself, who must not declare the state of the poll, nor proclaim the member or members chosen, until the poll so adjourned is finally closed, and the poll-books¹ delivered to the Returning Officer.²

CHAP. IV.

A similar provision in case of riots exists as to In Scotland. Scotch elections, with the following variations:—The Sheriff, or his Substitute, at the place where the riot has occurred, may adjourn the proceedings, either to the following day, or to *some other convenient time*, and, if necessary, may repeat such adjournment till the interruption has ceased, he always giving notice to the Returning Officer of such adjournment.³ No exception is made in the old acts as to *Sundays, Good Fridays, or Christmas Days*, but the provision in the Ballot Act⁴ prevents

¹ The term "poll book" when used in any enactment is to be construed to include any document which has to be forwarded to the Clerk of the Crown, in pursuance of rule 38 of the Ballot Act. See rule 38, App. cix.

² 2 Will. IV. c. 45, s. 70, App. xx., and 5 & 6 Will. IV. c. 36, s. 8, App. xxix.; and see 16 Vict. c. 15, s. 3, App. xlvii.

³ As to counties, 16 Vict. c. 28, s. 9, App. xlix.; as to burghs, 5 & 6 Will. IV. c. 78, s. 5, App. xxxi.

⁴ Ballot Act, rule 56, App. cxii.

CHAP. IV. any election in future from being held upon either of these days.

In Irish elections.

The enactment as to riot and violence at Irish elections (Dublin University is excepted from it¹) is similar to the corresponding provisions for English elections. The only peculiarities of the Irish statute on this head are, that the Returning Officer, or his Deputy, must adjourn the nomination or poll upon the proceedings being obstructed or interrupted by riot or open violence *near*, as well as at, any place of election or polling ; he must also do so when they are obstructed or interrupted by riot or open violence taking place elsewhere, *by the violent or forcible prevention, obstruction, or interruption, of voters proceeding on their way to such election or polling place* ; provided that this prevention, obstruction, or interruption of voters is shown by affidavit.²

On what day to take place.

The Poll.] The poll must take place on such day as the Returning Officer appoints³ in his notice of election, and in the subsequent notice which he has to give, as we have just seen,⁴ after the adjournment.⁵ In the case of an election for any county other than Orkney, or for a district borough⁶ other than the district including Kirkwall, the day fixed

¹ 13 & 14 Vict. c. 68, s. 17, App. xli.

² 13 & 14 Vict. c. 68, s. 18, App. xli. ; 25 & 26 Vict. c. 62, s. 7, App. lxiii.

³ Ballot Act, rule 14, App. civ.

⁴ *Ante*, p. 70.

⁵ It is clear that the poll must be taken upon the day fixed for it, and that it cannot be adjourned for any other reason, except on account of riot or open violence, as to which see above, pp. 76, 77. If, therefore, when the day fixed for taking the poll arrives the preparations for taking the poll are not complete, the Returning Officer must make a special return to the writ stating why the preparations were incomplete. See the return made in the *Hackney case*, 2 O. & H. 77.

⁶ As to what boroughs are district boroughs, see Ballot Act, rule 57, App. cxii. as to England, and rule 60, App. cxiii. as to Scotland.

by him must be not less than two or more than six days after the day fixed for the election, and in the case of an election for a borough, other than a district borough, the day must be not more than three clear days after the day fixed for the election.¹ CHAP. IV.

In the case of an election for Orkney, the day fixed must be not less than ten, or more than fourteen days, after the day on which the election was adjourned, and within twenty-four hours after the adjournment the Sheriff of Orkney must despatch notice thereof to the Sheriff-substitute of Shetland, and the polling in both parts of the county shall commence on the day to which the proceedings are adjourned.² In the case of an election for the district of burghs including Kirkwall, the adjournment may be for any period not exceeding seven free days.³ In Orkney.

In English counties, the poll commences at eight o'clock A.M., and must be kept open till five P.M. on the same day, when it is to be finally closed, unless adjourned before that hour in consequence of riot, or open violence.⁴ Opening and closing of poll.
In English counties.

In all English boroughs, except the Metropolitan boroughs, the poll commences at eight A.M., and must be finally closed at four P.M., on the same day, unless adjourned before that hour in consequence of riot or open violence.⁵ In the Metropolitan boroughs the poll commences at eight A.M., and is kept open until eight P.M.⁶ In English boroughs.

In all Scotch elections, except for Orkney and Shetland, the poll is to commence at eight A.M.,⁷ In Scotland

¹ Ballot Act, rule 14, App. civ.

² Ballot Act, rule 61, App. cxiii, and 2 & 3 Will. IV. c. 65, s. 31, App. xxvi.

³ Ballot Act, rule 61, App. cxi, and 2 & 3 Will. IV. c. 65, s. 30, App. xxv.

⁴ 16 Vict. c. 15, ss. 2, 3, App. xlvii.

⁵ 5 & 6 Will. IV. c. 36, ss. 2, 8, App. xxix.

⁶ 41 Vict. c. 4, App. post.

⁷ As to counties, 16 Vict. c. 28, s. 9, App. xlix.; as to burghs, 5 & 6 Will. IV. c. 78, s. 5, App. xxxi.

CHAP. IV.

and must be finally closed at four P.M., unless adjourned before that hour in consequence of riot or open violence.¹ It is, however, provided that the poll may, at any time after it has been demanded, be closed at any one place, if all the candidates, or their agents, and the Sheriff, or his Substitute, agree in so closing it.² In Orkney and Shetland the poll may be kept open for two consecutive days, subject to the same regulations, in other respects, as apply to other Scotch counties.³

In Ireland.

In Ireland the poll commences at eight A.M., and is kept open till five P.M.,⁴ but power is expressly reserved for the Returning Officer to close the poll previously to the expiration of the time fixed by the statutes,⁵ in cases where the same might have been closed before the passing of these statutes.

Effect of opening or closing poll at improper time.

The opening and closing of the poll at hours other than those specified in the various Acts of Parliament has been held not to vitiate the election if it is shown that the result of the election has not been affected by it.⁶ But if it appears that the irregularity attending the opening or closing of the poll was so great as to be fairly calculated by a reasonable mind to produce a substantial effect upon the election, it becomes unnecessary to sub-

¹ *Ante*, p. 76.

² As to counties, 16 Vict. c. 28, s. 9, App. xlix.; as to burghs, 5 & 6 Will. IV. c. 78, s. 5, App. xxxi.

³ By Ballot Act, rule 61, App. cxiii. it is enacted that "the provisions of the 2 & 3 Will. IV. c. 65, in so far as they relate to . . . the keeping open of the poll for two consecutive days in the case of Orkney and Shetland shall remain in force, anything in . . . any other act notwithstanding." Consequently the provision in 16 Vict. c. 28, s. 9, enacting that no poll shall be kept open for more than one day will not apply to Orkney and Shetland.

⁴ 25 & 26 Vict. c. 62, s. 4, App. lxxiii. as to counties, and 13 & 14 Vict. c. 68, s. 15, App. xl. as to boroughs.

⁵ 25 & 26 Vict. c. 62, s. 6, App. lxxiii. as to counties, and 13 & 14 Vict. c. 68, s. 18, App. xli. as to boroughs.

⁶ *Limerick*, P. & K. 373, S. C., C. & R. 548; *Harwich*, 1 P. R. & D. 314.

stantiate by evidence the fact that the result of the election was actually affected by it. It is enacted by s. 13 of the Ballot Act that "no election shall be declared invalid by reason of noncompliance with the rules contained in that Act, if it appears that the election was conducted in accordance with the principles laid down in the body of the Act," and this has been held to mean (what was in fact the common law before¹) that an election is not to be upset for a small informality or triviality, for instance, if one of the polling clerks is five minutes too late, but the judge is to look to the substance of the case to see if anything has occurred which might be calculated really to affect the result of the election.² Consequently it was held in a recent case³ that where several of the polling stations were not opened at the proper hour, and the consequence was that a very large body of the electors had no opportunity afforded to them of voting, the election was void, notwithstanding the fact that in all probability, if all those electors had voted, the same candidates would have been returned. Similarly in an Irish Municipal Election case,⁴ it was held that where the poll was kept open for nearly an hour after the statutory time for closing it the election was void, notwithstanding that the result of the poll was not shown to have been affected.

But there can be no pretence for closing the poll in case of riot,⁵ as in such a case there is, as we have seen,⁶ a statutory power of adjourning the

Closing poll
in case of
riot.

¹ In *Woodward v. Sarsons*, L. R. 10 C. P. at page 751, the Court said that this section was "an enactment *ex abundanti cautela* declaring that to be the law applicable to elections under the Ballot Act which would have been the law to be applied if this section had not existed."

² *Drogheda*, 2 O. & H. 202.

³ *Hackney*, 2 O. & H. 77.

⁴ *Gribbin v. Kirker*, Ir. Rep. 7 C. L. 30.

⁵ *Pontefract*, Glan. 141. *Cricklade*, 1 Dougl. 301; but see *Roxburgh*, F. & F. 503 note; *Bristol*, C. & D. 73.

⁶ *Ante*, p. 76.

CHAP. IV. poll. In Scotland, as we have seen,¹ the poll at any one place may be closed if all the candidates, or their agents, and the Sheriff, or his Substitute, shall agree in so closing it.²

Poll how to be closed. There is no defined mode of closing the poll,³ and when once closed it cannot be reopened.⁴ If improperly prolonged, the state of the poll at the end of the legal time would probably determine the election.⁴ In one case⁵ the petition alleged that the poll had been kept open and votes received after the legal time, but nothing was decided as to the effect of this upon the election.

Infringement of secrecy. We have already seen⁶ that a statutory declaration of secrecy is required to be made before the opening of the poll by the Returning Officer, and also by every officer, clerk, or agent, in attendance, either at a polling station or at the counting of the votes ; but in order to maintain the secrecy of the ballot, it is also enacted that any officer, clerk, or agent in attendance, either at a polling station, or at the counting of votes, who does not maintain the secrecy of the voting, or who communicates⁷ to any person before the poll is closed, any information he may have obtained as to the name or number on the register of any elector who has voted, or as to the official mark, or who interferes with a voter when marking his vote, or who induces a voter to display his ballot paper after he shall have marked it, shall be liable on summary

¹ *Ante*, p. 80.

² 16 Vict. c. 28, s. 9, App. xlix. as to counties, and 5 & 6 Will. IV. c. 78, s. 5, App. xxi. as to burghs.

³ Rogers on Elections, ed. 12, p. 323.

⁴ *Arundel*, Glan. 71.

⁵ *Knarborough*, 2 P. R. & D. 211.

⁶ *Ante*, p. 39.

⁷ It was held in *R. v. Unkles*, Ir. Rep. 8 Com. Law, 53, that it is no defence to an indictment for violation of the secrecy of the Ballot that the violation was a mere inadvertence, and that there was no such deliberate disclosure as was necessary to constitute an offence under this section.

conviction before any two justices to any term not exceeding six months, with or without hard labour.¹ "This enactment," said Brett, J. in *Clementson v. Mason*, L. R. 10 C. P. 213, "is plainly pointed not only to secrecy as to the way in which an elector has voted, but it also requires secrecy until the poll is closed as to the names of those who have not offered to vote. The intention as to those last must be to prevent pressure being put upon those electors who do not wish to vote." But "an offence," said Bramwell, L. J. in *Stannanought v. Hazeldine*, L. R. 4 C. P. D. 195, "against that part of the section which prohibits the communication of information, is not committed unless the alleged offender actually makes known the information to another person, it is not enough that he merely gives him the means of acquiring it. . . . It is not enough to prove that the means of knowledge are given, but it must be shown that some person has actually availed himself of the means of knowledge."

CHAP. IV.

The polling stations or buildings in which the poll takes place are determined by the rules laid down in the preceding chapter, where may be also found a description of the duties and qualifications of the various officers to be appointed for the purpose of assisting at the poll.² The general formalities of a contested election have thus, to a great degree, been anticipated. But it is necessary to notice more particularly the mode of taking or refusing votes; the questions that may be asked; and the course to be pursued in cases of improper conduct, insanity, or personation, on the part of persons offering to vote, and in cases where the names of persons offering to vote do not appear in the register.

Places of
polling, &c.

¹ Ballot Act, s. 4, App. lxxxv.

² As to counties in general, pp. 35-43; as to boroughs in general, p. 48; as to Scotch counties, pp. 52, 53; as to Scotch burghs, p. 55; as to Irish counties, pp. 59, 60; as to Irish boroughs, p. 63.

CHAP. IV.
Opening the
poll.

Upon the opening of the poll, and as soon as the presiding officer has gone through the formalities, above described,¹ of showing the ballot box empty to such persons, if any, as are present in the polling station, and has locked and sealed the ballot-box, and put it in its place before him,² it is competent for any elector, whose name is on the register of voters for the time being in force,³ to enter the polling station allotted to him,⁴ and demand a ballot paper,⁵ but no person will be admitted to vote at any polling station except the one allotted to him.⁴ *Prima facie* every man is qualified to vote whose name is on the register in force at the time of the election.⁶ But if a person, whose name is on the register, is prohibited from voting by any statute or by the common law of parliament,⁶ it is expressly enacted that nothing in the Ballot Act shall entitle such a person to vote,³ or shall relieve him from the penalties to which he may be liable for voting.³

Method of
voting.

The proper mode of voting is for each elector, upon receiving a ballot paper from the presiding officer,⁷ to proceed forthwith into one of the compartments in the polling station, and there place a cross upon the right-hand side of the ballot-paper

¹ *Ante*, p. 36.

² Ballot Act, rule 23, App. cv.

³ *Id.* s. 7, App. lxxxviii.

⁴ *Id.* rule 18, App. cv., and see 2 Will. IV. c. 45, s. 64, App. xix. as to counties, and s. 68, App. xx. as to boroughs.

⁵ Under the registration acts for England, 6 Vict. c. 18, s. 79 ; for Scotland, 19 & 20 Vict. c. 58, s. 44 ; and for Ireland, 13 & 14 Vict. c. 69, s. 85.

⁶ These words mean "persons who from some inherent or for the time irremovable quality in themselves have not, either by prohibition of statutes or at common law, the status of parliamentary electors. Such, for example, are peers, women, persons holding certain offices and convicts ; but these words do not mean persons who from failure in the incidents or elements of the franchise could be successfully objected to before the revising barrister." Per Lord Coleridge, *C. J.*, *Stowe v. Jolliffe*, L. R. 9 C. P. 750.

⁷ As to the duties of the presiding officer with respect to furnishing ballot papers to the electors, see *ante*, p. 36.

opposite¹ the names of the candidate or candidates for whom he votes.² Pencils for marking the ballot-papers are, as we have seen, ordered to be provided by the Returning Officer, but the voter is not obliged to use these pencils, and may, if he please, mark his ballot paper with a pen and ink.³ He must then fold it up so as to conceal his vote, and so as to show the official mark on the back of it; and, leaving the compartment without showing the front of the paper to any person, show the official mark on the back to the presiding officer,⁴ and then, in the presence of the presiding officer, put the ballot paper into the ballot box, and forthwith quit the polling station.⁵ If a voter deviates at all from these directions for marking his ballot-paper, he runs the risk of having his vote rejected by the Returning Officer, who is entitled to treat any ballot paper which is not marked precisely in the way in which the Act

CHAP. IV.

¹ It was decided in the *Athlone Case*, 2 O. & H. 189, and *Wigtown*, *ib.* 223, that a ballot paper ought not to be rejected merely on account of the cross being put in the compartment of the ballot paper in which the candidate's name is printed. Neither will a ballot paper be rejected merely on account of being clumsily marked, *Wigtown*, *ib.* 233. In the *Wigtown Case*, 2 O. & H. 215, it was held by the majority of the court that the mark must be a cross, and not any other kind of mark, and that it must be upon the right hand side of the ballot paper. But see judgment of court in *Woodward v. Sarsons*, L. R. 10 C. P. 733.

² If the name of a candidate is by mistake or otherwise inserted twice in the ballot paper, it is immaterial which name the voter puts his mark against, *Northcote v. Pulsford*, L. R. 10 C. P. 476.

³ *Wigtown*, 2 O. & H. 219.

⁴ As to the liability of the presiding officer if he allows ballot papers to be put into the ballot box without having the official mark upon them, see *Pickering v. James*, L. R. 8 C. P. 489, and *ante*, p. 37, note (3).

⁵ Ballot Act, rule 25, App. cvi. and sch. 2, *Form of directions for guidance of voter in voting*, App. cxx. As to electors who are incapacitated by physical disability or otherwise from themselves marking their ballot papers, see *ante*, p. 37; and Ballot Act, rule 26, App. cvi.

CHAP. IV.

Spoilt ballot
papers.

directs, as having been marked otherwise for the purpose of identification.¹

If a voter through inadvertence marks his ballot paper in an improper way, he should immediately apply to the presiding officer, who must, upon being satisfied of such inadvertence, give him another paper in place of the spoilt ballot paper, and the spoilt paper must be immediately cancelled.²

What votes
may be re-
jected at the
poll;

It is important, with a view to avoiding the necessity of petitioning, that Returning Officers and presiding Officers should know what void votes may safely be rejected, and what they are bound to receive. Of the various kinds of void votes, eight may here be noticed. Of these the first two ought not to be received at all by the presiding Officer; viz.—1, where the person offering to vote is not on the register; 2, where the person offering to vote refuses to answer the statutory questions, or to make, if required to do so, the statutory declaration.

What must
be specially
dealt with.

The next kind must be received by the presiding Officer, and dealt with in a particular way to be hereafter explained; i.e. 3, where a vote is claimed in respect of a qualification in right of which somebody else has already voted.

What must
be received
in the
ordinary
manner.

The next five (and all other) kinds must be entered like valid votes, and can only be remedied by a petition; viz.—4, where a vote is given for an ineligible candidate, after due notice of such ineligibility; 5, where, without such notice, the candidate is ineligible to the voter's knowledge; 6, where the vote is given under corrupt influence, or by a person who has been guilty of corrupt practices at the election; 7, where the voter has

¹ *Wigtown*, 2 O. & H. 221; *Woodward v. Sarsons*, L. R. 10 C. P. 748.

² Ballot Act, rule 28, App. cvii. and sch. 2, *Form of directions for the guidance of voters in voting*, App. cxx. By s. 3 to forge or fraudulently deface a ballot paper, or to put into the ballot box any paper other than the ballot paper, is a misdemeanour.

been hired for the purposes of, and within six months of, the election, by, or on behalf of, a candidate; 8, where the voter is under some mental disability. CHAP. IV.

These different kinds of void votes shall now be considered separately in their order.

1. The Register is by the Ballot Act made conclusive of a person's right to vote. No person is now entitled to vote, unless his name is on the register of voters for the time being in force; and every person whose name is on such register is entitled to demand and receive a ballot paper and vote.¹ The right of tendering a vote if a person's name has been omitted from the register by the decision of the revising barrister, and of appealing from such decision to an election judge, is now taken away.² Register now conclusive of right to vote.

2. The next kind of vote which ought to be rejected is that of an elector who refuses to answer the statutory questions, or to make, if required to do so, the statutory declaration. The Returning Officer, or his Deputy, may, in every English or Irish Election,³ if required on behalf of any candidate, put to any voter, at the time of his vote being tendered, but not afterwards, either, or both, of the following questions; and, if the voter refuses to answer, or by his answer makes it appear to the Returning Officer, that he is not the person whose name appears on the register or that he has voted before, his vote is to be rejected:⁴— Where the voter refuse to answer statutory questions.

1. Are you the same person whose name appears as

¹ Ballot Act, s. 7, App. lxxxviii. In *Stowe v. Jolliffe*, L. R. 9 C. P. 759, Lord Coleridge said as follows: "I think the true construction of [s. 7 of the Ballot Act] is to make the register conclusive, not only on the returning officer, but also on any tribunal which has to inquire into elections. . . ."

² The sections 59 and 60 of the 2 Will. IV. c. 45, which formerly gave this power of tender and appeal, are now repealed by the Ballot Act.

³ And now in every Scotch election also; see the Parl. El. and Corrupt Practices Act, 1880, printed at the end of the Appendix.

⁴ As to England, 6 Vict. c. 18, ss. 81, 82, App. xxxiii.; as to Ireland, 13 & 14 Vict. c. 69, ss. 88, 89, App. xliii.

CHAP. IV. A. B. on the register of voters now in force for the county of — [or for the — riding, parts or — division, of the county of —, or for the city of —, or for the borough of — as the case may be]?

2. Have you already voted, either here or elsewhere, at this election for the county of — [or for the — riding, parts, or — division of the county of — or for the city of —, or for the borough of —, as the case may be]?

If any person wilfully makes a false answer to either of these questions, he will be guilty of a misdemeanour.¹

Meaning of
the first
question;

It should be observed, that the meaning of the first of these questions, and of the corresponding clause in the oath about to be mentioned, is not whether the person tendering his vote is rightly named in the register as A. B., but whether he is the person whom the name A. B. was intended to designate there. So that John Smith, if entered in the register as Richard Smith, would be entitled to answer the question in the affirmative; whilst any other person, though really bearing the name of Richard Smith, could not so answer without being guilty of a misdemeanour.²

Questions
how to be
asked.

These questions must be asked in the very words of the Act, and no vote can be rejected unless they have been put.³ If these two questions are satisfactorily answered by the voter, and the oath to the truth of them taken, the presiding officer will render himself liable to a criminal prosecution if he refuses to take the vote,⁴ even

¹ As to England, 6 Vict. c. 18, s. 81, App. xxxiii., and as to Ireland, 13 & 14 Vict. c. 69, s. 88, App. xliii.

² *R. v. Thwaites*, 1 E. & B. 704, 22 L. J. Q. B. 238. *Sligo*, W. & D. 227.

³ *Canterbury Case*, K. & O. 323, 326, 327.

⁴ As to what is not an unsatisfactory answer, see *Moody's Case*, New Sarum, P. & K. 255.

⁵ "The returning officer in refusing to admit the vote [of a person whose name was on the register, and who had answered the questions] had mistaken his duty and acted in contravention of the 82d section of 6 Vict. c. 18, and might have subjected himself to a criminal prosecution for the breach of a public duty." Per Curiam, *Pryce v. Belcher*, 4 C. B. 866.

though he knows that the person tendering it is answering and swearing falsely.¹ CHAP. IV.

In addition to these two inquiries, there is but one other requisition which may be made of a person tendering his vote at an English or Irish Election; namely, the Returning Officer, or his Deputy—or, at an Irish Election, a commissioner, or commissioners, whom the Returning Officer is authorised, if he think fit, to appoint for that purpose,²—must, if required on behalf of any candidate at the time of the vote being so tendered, administer to the person tendering it the following oath or affirmation;³ a refusal to take or make which entails the same results as a refusal to answer the inquiries:⁴—

You do swear [or affirm *as the case may be*] that you are the same person whose name appears as A. B. on the register of voters now in force for the county of — [or for the — riding, parts, or division of the county of —, or for the city or borough of — *as the case may be*], and that you have not before voted, either here or elsewhere, at the present election for the county of — [or for the — riding, parts, or division of the county of —, or for the city or borough of —, *as the case may be*.] So help you God.

In Scotland, no question can be put;⁵ and with regard to burgh elections, inasmuch as the 26th Section of the Scotch Reform Act, 1832, is repealed by the Ballot Act, there is now no power to require any declaration to be made by a person who tenders his vote, since the enactment of 24 & 25 Vict. c. 58, appears⁶ to apply only to

Scotch
elector's
declaration.

¹ 6 Vict. c. 18, s. 86, as to England, App. xxxiv., and 13 & 14 Vict. c. 69, s. 93, as to Ireland, App. xlv.

² As to the form of appointment, see *ante*, p. 60; and 13 & 14 Vict. c. 69, s. 88, App. xliii.

³ As to England, 6 Vict. c. 18, s. 81, App. xxxiii.; as to Ireland, 13 & 14 Vict. c. 69, s. 88, App. xliii.

⁴ As to England, 6 Vict. c. 18, s. 82, App. xxxiii.; as to Ireland, 13 & 14 Vict. c. 69, s. 89, App. xliii.

⁵ This is now altered by the Parl. El. and Corrupt Practices Act, 1880, printed at the end of the Appendix.

⁶ The question whether 24 & 25 Vict. c. 58 applies to

CHAP. IV. county voters. By that last-mentioned Act any person tendering his vote in a county election may be required to make the following declaration: ¹—

I, A. B., declare that I am the person whose name appears on the register of voters now in force for the county of —, as A. B. [*name and surname, and place of abode, as in register*]; and that I have not before voted at this election.

This oath, or affirmation, is not to be put by the Sheriff, except on a requisition to him to that effect, on behalf of any candidate.² It seems that the meaning of that portion which relates to “being the person whose name appears on the register,” is the same as that of the first of the two questions and of the corresponding clause in the oath,—which may be put to voters in English and Irish elections.³

Right of personator to vote in Scotland.

It is nowhere distinctly laid down with regard to Scotland (as we have seen⁴ that it is with regard to England and Ireland) whether a presiding officer is bound to give a ballot paper to a person whom he has reason to believe is personating some one else. In the last treatise on this subject,⁵ it is assumed that, under these circumstances, he is not bound to give him a ballot

borough elections is discussed at some length in “Analysis of the Ballot Act, by David Crichton, Edinburgh, 1873,” p. 22. He comes to the conclusion that it does not apply to borough elections. See also Nicholson on Elections, 178.

¹ 24 & 25 Vict. c. 83, s. 45, and schedule D as amended by the repealing schedule of the Ballot Act.

² This is so enacted in s. 26 of 2 & 3 Will. IV. c. 65, which section is repealed by the Ballot Act, but 24 & 25 Vict. c. 83, s. 45, App. lxii. enacts that, “whenever according to the provisions of 2 & 3 Will. IV. c. 65 an oath or solemn affirmation in form of schedule 1 to that Act annexed may be put or is required to be taken, there shall be put or required to be made a declaration in the form of schedule D.”

³ *Ante*, p. 87.

⁴ *Ante*, p. 88.

⁵ Analysis of the Ballot Act as applicable to Scotland, by David Crichton, Edinburgh, 1873, p. 24.

paper, but that he ought immediately to give him in custody. CHAP. IV.

If the person applying for a ballot paper satisfies these statutory tests, no other inquiries are then to be made; but the Returning Officer, or his Deputy, is bound, as we have above seen,¹ to allow him to vote.

3. The Ballot Act enacts, that if any person, representing himself to be a particular elector named on the register, applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly answering the questions, and taking the oath permitted by law to be asked and to be administered to voters at the time of polling, be entitled to mark a ballot paper in the same manner as any other voter. But the ballot paper must be of a different colour from the other ballot papers, and, instead of being put into the ballot box, it is to be given to the presiding officer, and endorsed by him with the name of the voter and his number on the register, and kept apart from the ballot papers which are in the ballot box. This vote is not to be counted by the Returning Officer, but is to be entered in a list, together with the name and number of the voter, which list is called "the tendered votes list."² This provision of the Ballot Act applies to the whole United Kingdom; but in Scotland, as we have seen,³ no questions are permitted to be asked of a person who applies for a ballot paper; he can only be required to make, in certain cases, a declaration of identity.

¹ *Ante*, p. 88.

² Ballot Act, rule 27, App. cvi. It is stated in the last edition of Rogers on Elections, ed. 12, p. 321, that "it is clear that if a returning officer reject a vote at the poll for any other cause [except personation], the person so rejected can, by proving a parol tender, claim to have his vote established on a scrutiny." It is no doubt clear that this was so before the Ballot Act, but it can hardly be said to be clear that it is now, at any rate the point has not yet arisen.

³ *Ante*, p. 89.

CHAP. IV.

Votes for
candidate
after notice
of his being
disqualified.

Notice,
when to be
given.

Notice, how
given.

4. If a candidate is disqualified¹ from being elected, the vote of any elector who has received notice of the fact of his disqualification will be lost, if given to that candidate, and may afterwards be struck off on petition. If, therefore, in such a case, after deducting lost votes of this character, another candidate (for, or by whom the seat is claimed) has the legal majority, he will obtain the seat on petition.² The notice need not necessarily be given before the commencement of the poll, but it is advisable to do so, because, if, in consequence of the notice having been given after the commencement of the election, enough votes were given, *before the notice*, to give the disqualified candidate a majority even after the subsequent lost votes are deducted—then, as the prior votes cannot be treated as lost, or nullities, the election, as regards the disputed seat, will be void, and there must be a second appeal to the constituency.³ And so, *à fortiori*, when an ineligible candidate obtains a majority, and no such notice has been given.⁴

In order, therefore, to avoid the expense and inconvenience of a second election, it is highly important to the other candidates that due notice⁵

¹ As to what constitutes a disqualification, so that votes given after notice will be treated as thrown away, see Rogers on Elections, ed. 12, chap. v., and May's Parl. Pract. ed. 7, pp. 30—38. In the *Galway County Case*, Ir. L. 6 C. L. 464, it was held that a corrupt practice committed by a candidate at or immediately previous to an election, disqualifies him from being a candidate, and that votes given after notice of such corrupt practice will be treated as thrown away, but this case must be considered as overruled on this point by *Deakin v. Drinkwater*, L. R. 9 C. P. 626. See also *Tipperary Case*, 3 O. & H. 41.

² *Trench v. Nolan*, Ir. R. 6 C. L. 464.

³ *R. v. Hawkins*, 10 East, 211, on appeal, 2 Dow's Rep. 124.

⁴ Per Martin, B., *Norwich Case*, 1 O. & H. 11. "If he committed bribery the effect would be to destroy his status as a candidate, to render him by law incapable of election, and make every vote given to him void."

⁵ For a form of notice see notice given in the *Galway County Case*, 2 O. & H. 46, and in *Deakin v. Drinkwater*, L. R. 9 C. P. 627.

should be given of the ineligibility of any person, who may thus seek to obtain a majority at the poll. The utmost publicity should be secured for the notice. In small constituencies a printed or written notice of the objection, and its grounds, should be sent to, or served on, every elector, evidence being retained of this having been done.¹ Where the electors are too numerous for such a course, the notices may be sent by post, or placards may be affixed on the most prominent places near, and on the way to, the poll.²

CHAP. IV.

But in order that notice of disqualification may be effectual, it is necessary to prove not only that the elector had notice of the fact which creates the disqualification, but also that the voter was aware that the fact amounted to a disqualification. Thus, in *R. v. Tewkesbury*, L. R. 3 Q. B. 629, Blizzard, one of the candidates for the office of Common Councillor, was disqualified because he, being Mayor at the time of the election, acted as Returning Officer. It was a notorious fact that Blizzard was Mayor at the time, so the unsuccessful candidate claimed the seat on the ground that the votes given for Blizzard were given with the knowledge that Blizzard was disqualified, and consequently ought to be treated as nullities. But the Court of Queen's Bench refused to seat the unsuccessful candidate. "The knowledge," said Blackburn, J., "that Blizzard was the Mayor is clearly brought home to every voter."³ But it does not seem to me consistent either with justice or common sense, or common law, to say that because voters were aware of a certain circumstance they were necessarily aware of the disqualification arising from that circumstance, and that therefore their votes are to be considered as mere nullities. Upon this ground I do not think that

¹ *Wakefield*, Bar. & Aust. 319.

² *Galway County*, 2 O. & H. 46; *Belfast*, Falc. & Fitzh. 608; *Cork County*, K. & O. 406.

³ Page 636 of the L. R. 3 Q. B.

CHAP. IV. the votes given in ignorance that Blizard was in law disqualified are made out to have been wholly thrown away, and that the unsuccessful candidate is entitled to be declared elected."¹

Lost votes for persons known to be ineligible by the voter.

Votes void from corrupt or undue influence; or hiring.

5. An elector also is said to lose his vote where he votes for a person whom he knows, even without notice,² to be at the time ineligible; *e. g.*, if he votes for a woman.³ All votes given under corrupt or undue influence are void.⁴ Also the vote of any person who is guilty of any corrupt practice,⁵ or who has been hired, for the purposes of, and within six months of, the election by or on behalf of a candidate—whether as agent, canvasser, clerk, messenger, "or the like"—will be void at that election,⁶

¹ This case was cited in the judgment of the majority of the court in *Trench v. Nolan*, Ir. Rep. 6 Common Law, 464, where the question of the effect of notice of disqualification was elaborately discussed and all the authorities on the subject cited. See also *Tipperary Case*, 3 O. & H. 41; *Etherington v. Wilson*, L. R. 20 Q. 618, and on appeal, L. R. 1 Ch. D. 160.

² In a recent Municipal Election case in Canada, *Booth v. Sutherland*, 10 Canada Law Journ. 289, it was held that where a person had been unseated for bribery, whereby he became ineligible as a candidate for two years, it was unnecessary that formal notice of this fact should be given to each elector at a subsequent election within the two years when he stood again, as the fact of his having been unseated for bribery, and thereby made ineligible was perfectly well known to all the electors, and therefore that votes given for him were to be treated as votes thrown away.

³ In *Gosling v. Veley*, 7 Q. B. 439, Lord Denman said: "If the disqualification be of a sort whereof notice is to be presumed, none need expressly be given; no one would doubt that if an elector would nominate and vote only for a woman to fill the office of burgess in parliament his vote would be thrown away; then the fact would be notorious, and every man would be presumed to know the law upon that fact. See this dictum of Lord Denman commented on in *Trench v. Nolan*, Ir. R. 6 C. L. 464.

⁴ *Post*, p. 158.

⁵ *Post*, p. 159.

⁶ 30 & 31 Vict. c. 102, s. 11, App. lxxviii. as to England; 31 & 32 Vict. c. 48, s. 8, App. lxxiii. as to Scotland; and 31 & 32 Vict. c. 49, s. 8, App. lxxviii. as to Ireland. See also *ante*, p. 76.

and on a scrutiny one vote may be struck off for every such person who votes.¹ CHAP. IV.

8. Formerly, if a person offering to vote was in the opinion of the Returning Officer under some mental disability, whether from drunkenness or lunacy, he might refuse to record his vote, or he might record it as a tender.² Now, however, as the Act says,³ that any person whose name is on the register is entitled to receive a ballot paper on application, and, as no vote can now be received as a tendered vote, except in the case of personation,⁴ it seems doubtful whether a presiding officer would be justified in refusing to give a ballot paper to any registered elector if he answers the statutory questions and takes, if required, the statutory oath, although he might know of his own knowledge that the person applying for the ballot paper is under mental disability.

The offence of personation⁵ is, by the Ballot Act,⁶ section 24, defined as follows:—"A person shall be deemed to be guilty of the offence of personation who applies for a ballot paper in the name of some other person; whether that name be that of a person living or dead, or of a fictitious person, or who, having voted once at any election, applies at the same election for a ballot paper in his own

Vote of person under mental disability.

Personation.

¹ Ballot Act, s. 25, App. xcix.

² Rogers on Elections, ed. 12, p. 195.

³ Ballot Act, s. 7, App. lxxxviii.

⁴ *Id.* rule 27, App. cvi. and Home Office Abstract, par. 35, App. cxliv.

⁵ "To personate," said Crompton, J., in *R. v. Hague*, 4 B. & G. 720, "means to pretend to be a particular person, . . . and it is not necessary that a person should, by his personation, succeed in giving a vote."

⁶ The Ballot Act repeals the enactments as to the punishment of personation in England, contained in 6 Vict. c. 18, ss. 83, 84; but the sections of 13 & 14 Vict. c. 69, as to the punishment of personation in Ireland, viz., ss. 90, 91 (as also 1 Geo. IV. c. 11, s. 36, and 4 Geo. IV. c. 55, s. 82), are not repealed by the Ballot Act, see App. xlv. xii. xvii. Before the passing of the Ballot Act personation was not a statutable offence in Scotland. As to Scotland, see Ballot Act, s. 26, App. xcix.

CHAP. IV. name." It is now felony,¹ and any person convicted thereof shall be punished by imprisonment for a term not exceeding two years, together with hard labour. It is the duty of the Returning Officer to institute a prosecution against any person whom he may believe to have been guilty of this offence at the election for which he is Returning Officer, and the costs and expenses of the prosecutor and the witnesses in such case, together with compensation for their trouble and loss of time, shall be allowed by the Court, in the same manner in which Courts are empowered to allow the same in cases of felony.²

Personation a corrupt practice.

The offence of personation is also made, by the Ballot Act, a corrupt practice within the meaning of the Parliamentary Election Act, 1868,³ and any candidate found by the report of an election judge guilty of this offence by himself or his agents, will be incapable of being elected or sitting in Parliament during the Parliament then in existence.⁴

How personator to be dealt with.

We have seen⁵ that in England and Ireland although the Returning Officer, or his Deputy, may know of his own knowledge that a person applying for a ballot paper is committing the offence of personation, he is not entitled, on that ground, to refuse him a ballot paper, if that person answers the statutory questions and, if required to do so, takes the statutory oath. But we have also seen that it is now his duty to institute a prosecution against all persons whom he believes guilty of personation, and, besides this, he has certain duties

¹ As personation is now felony, a person indicted for the offence may be under such indictment found guilty of an attempt to commit the offence, 14 & 15 Vict. c. 100, s. 9.

² Ballot Act, s. 24, App. xcix.

³ By s. 27 of the Ballot Act, the part of the Ballot Act which relates to personation is to be construed as one with the Parl. EL Act, 1868.

⁴ Ballot Act, s. 24, at the end of the section, App. xcix. See dicta of Blackburn, J., *Gloucester*, 2 O. & H. 64.

⁵ *Ante*, p. 88.

to perform if any of the agents appointed¹ by the various candidates to detect personation make a charge of personation against any person voting. These duties, in England and Ireland,² are as follows:—If upon a person tendering his vote, or after he has voted and before he leaves the polling station, any agent shall declare to the presiding officer that he verily believes, and undertakes to prove, that such person is not in fact the person in whose name he assumes to vote (or to the like effect), the presiding officer must, immediately *after taking the vote*, order by word of mouth a constable, or peace-officer, to take the voter into custody, and must cause the words “*protested against for personation*” to be placed against the vote when entered in the poll-book.³

The constable, or peace-officer, is required, at the earliest convenient time, to take the accused person before any two Justices of the Peace, acting in and for the county, or borough, within which the vote was taken; or—in case the attendance of two such Justices cannot be procured, within three hours after the close of the poll, on the same day—the constable, or peace-officer, must, if requested by the accused person, take him before any one

Accused to
be taken
before jus-
tices.

¹ As to their appointment, see above, p. 72.

² The only statutory enactment as to what proceedings the returning officer is to take in Scotland against a person charged with personation is s. 26 of the Ballot Act, App. xcix.

³ In England, 6 Vict. c. 18, s. 86, App. xxxiv.; in Ireland, 13 & 14 Vict. c. 69, s. 93, App. xlv. As there is now no poll book to write these words “*protested against for personation*” in, it would appear advisable for the presiding officer either to make a list of such persons, or to write those words against the names of the persons in the copy of the register; the word “*poll book*,” when used in former enactments, now includes *any* document forwarded to the Clerk of the Crown in pursuance of rule 33 of the Ballot Act. (See rule 38, App. cix.) It consequently includes the copies of the register. In Rogers on Elections, ed. 12, p. 326, it is suggested that these words “*protested against for personation*” ought to be written on the ballot paper if the person who has marked it is accused of personation.

CHAP. IV.

Where the offender is to be finally committed for trial.

Penalty on candidate's agent, or principal, if the offence is not proved before the justices.

such Justice of the Peace; who is required to liberate such person, on his entering into a recognisance with one sufficient surety, conditioned to appear before any two such Justices, to answer the charge, at a time and place to be mentioned in the recognisance. If no such Justice is found within four hours after the closing of the poll, then the accused must be liberated without such recognisance; but if, from this, or any other cause, the charge cannot be inquired into within the time above specified, any two such Justices may inquire into it on the next, or some subsequent, day; and, if necessary, may issue their warrant for the apprehension of the accused person.¹ If, on the hearing of the charge, the Justices are satisfied by the evidence, on oath, of two credible witnesses, that the accused is guilty, they must commit him to the gaol of the county, or borough, in which the offence was committed, to take his trial; and must bind over the witnesses, in their respective recognisances, to give evidence at such trial, as in the case of other misdemeanours.² On the other hand, if the Justices consider the accused person innocent, and that the charge was made without reasonable or just cause—or if the agent who made it does not appear to support it before them—they are required to make an order in writing, under their hands, to the agent, “to pay to the person so falsely charged, if he shall consent to accept the same,” any sum not exceeding ten, nor less than five, pounds, “by way of damages and costs.” Moreover, the money, if it be not paid within twenty-four hours after the making of the order, is to be levied by distress and sale of the goods and chattels of the agent, by warrant under the hand and seal of any Justice of the Peace in such county or borough; and, if no sufficient goods, or chattels, can be found for the

¹ In England, 6 Vict. c. 18, s. 87, App. xxxiv.; in Ireland, 13 & 14 Vict. c. 69, s. 94, App. xlv.

² In England, 6 Vict. c. 18, s. 88, App. xxxv.; in Ireland, 13 & 14 Vict. c. 69, s. 95, App. xlv.

purpose, the levy is to be made on those of the candidate on whose behalf the agent was appointed to act. If the sum is not thus paid, or levied, the accused person may recover it from the agent, or candidate, with full costs of suit, in an action of debt, in one of the Superior Courts, at Westminster, or Dublin, according to the country where the election took place. It is, however, provided, that if the falsely accused person shall have declared to the Justices his consent to accept the sum so ordered by them, to be paid by way of costs and damages—and if the whole amount be paid or tendered to such person—then neither the agent nor the candidate can be further proceeded against.¹

CHAP. IV.

In case of riot or open violence the poll may, as we have seen,² be adjourned. But this is the only ground on which an adjournment can take place. If, therefore, when the day fixed for taking the poll arrives, the preparations are not complete and the poll cannot be properly taken, the only course open for the Returning Officer is to make a special return to the writ, stating the reasons why the preparations for taking the poll had not been completed in time.³

Adjournment of poll only allowed in case of riot.

We have already seen,⁴ that, as soon as practicable after the close of the poll, the several presiding officers are to forward to the Returning Officer (among other things), the ballot boxes which were used at their respective stations unopened, but with the key attached; and, as soon as practicable after receiving these ballot boxes and other things from the presiding officers, the Returning Officer must commence counting the votes.⁵ This process is to be performed at whatever time or place the

Counting the votes.

¹ In England, 6 Vict. c. 18, s. 89, App. xxxv.; in Ireland, 13 & 14 Vict. c. 69, s. 96, App. xlv.

² *Ante*, p. 76.

³ *Hackney*, 2 O. & H. 77. See special return made as to that election.

⁴ *Ante*, p. 38.

⁵ Ballot Act, rule 32, App. cvii.

CHAP. IV. Returning Officer likes to appoint.¹ He must give notice in writing to the agents of the candidates of the time and place appointed by him,¹ and they and the candidates² (but no other person, except with the sanction³ of the Returning Officer), are entitled to be present at the counting of the votes.⁴ If, however, they, or any of them, do not present themselves at the appointed time, the Returning Officer need not wait for them, but may immediately proceed to commence the counting, as it is expressly enacted, that the non-attendance of any agents, if in the Ballot Act any expressions are used requiring, authorising, or inferring that any act or thing is to be done in the presence of the agents, shall not invalidate such act or thing, if otherwise duly done.⁵

Recounting
votes.

If there is any ground for supposing that the votes have been wrongly counted, the only course open is to present a petition praying that they may be recounted. It has been held that such a petition may be presented under the Parl. El. Act, 1868.⁶

Who may
assist Re-
turning
Officer.

In addition to the general authority which the Returning Officer has of appointing and paying such officers as may be necessary for effectually conducting the election,⁷ he has, as we have seen,⁸ special authority to appoint competent persons in addition to any clerks, to assist him in counting the votes;⁹ and in England and Ireland, provided he does not employ more than six such persons, where the number

¹ Ballot Act, rule 32, App. cvii.

² *Id.* rule 51, App. cxi.

³ By s. 3 of the Ballot Act, to interfere with a ballot box or ballot papers without due authority to do so is a misdemeanour.

⁴ Ballot Act, rule 33, App. cviii.

⁵ *Id.* rule 55, App. cxii.

⁶ *Renfrew*, 2 O. & H. 213.

⁷ *Id.* s. 8, App. lxxxviii.

⁸ *Ante*, p. 35.

⁹ *Id.* rule 48, App. cxi.

of registered electors does not exceed 3,000, and one more for every additional 2,000 electors, he is entitled to pay the persons so appointed one guinea each.¹

Before commencing the counting, the first thing the Returning Officer has to do is, in the presence of the agents, to open each ballot-box, take out the papers therein, count and record the number of them, and then mix them all together.² He is then to proceed with the counting, taking care to keep the ballot papers with their faces upwards, and to prevent any persons from seeing the numbers printed on the backs of the papers.² The counting is to go on continuously, allowing only time for refreshments, and excluding (except so far as the Returning Officer and the agents otherwise agree) the hours between 7 P.M. and 9 A.M. During the excluded time the ballot papers and other documents relating to the election are to be placed under the seal of the Returning Officer and the agents, and all necessary precautions are to be taken for their safe keeping.³

Formalities
as to count-
ing the
votes.

The power of deciding on the validity of votes rests with the Returning Officer alone, and cannot be delegated.⁴ He is specially directed⁴ to reject any ballot paper (1) which has not on its back the official mark;⁵ (2) on which votes are given to more candidates than the voter is entitled to vote for; (3) on which anything⁶ except the number on the back is written or marked by which the voter can be identified; (4) any

Rejection
of invalid
ballot
papers.

¹ 38 & 39 Vict. c. 84, Schedule I. part 1 for counties, and part 2 for boroughs.

² *Id.* rule 34, App. cviii.

³ Ballot Act, rule 35, App. cviii.

⁴ Ballot Act, s. 2, App. lxxiv.

⁵ *Wigtown*, 2 O. & H. 216.

⁶ Thus if a name be written on the back of the ballot paper, although it be not the name of the voter, the ballot paper must be rejected: *Wigtown*, 2 O. & H. 216; *Woodward v. Sarsons*, L. R. 10 C. P. at p. 349.

CHAP. IV. ballot papers which are unmarked or void for uncertainty.¹

Effect of
deviation
from instruc-
tions as to
voting
given in
Ballot Act.

We have already seen² that if a voter deviate at all from the instructions as to voting given in the Ballot Act,³ he runs the risk of having his vote rejected by the Returning Officer. No absolute rule can be laid down as to what amount of deviation from the prescribed method of marking the ballot paper will justify a Returning Officer in rejecting a vote, because in each case the decision is upon a point of fact as to whether the deviation arose from clumsiness,⁴ or was purely accidental, or was intentional and for the purpose of identification. The only rule that can be given in general terms is that the paper must be marked so as to show that the voter intended to vote for some one and so as to show for which of the candidates he intended to vote, but it must *not* be marked so as to show that he intended to vote for more candidates than he was entitled to vote for, nor so as to leave it uncertain whether he intended to vote at all, or for which candidate he intended to vote, nor so as to make it possible by seeing the paper itself, or by reference to other available facts to identify the way in which he has voted.⁵ It has been held in England the placing of two crosses, or three crosses, or a single stroke (thus /) in lieu of a single cross, or placing a straight line (thus \), or a mark like an imperfect letter P in addition to the cross, or a cross blurred or marked with a tremulous hand, or a cross placed on the left-hand side of the ballot paper instead of on the right-hand side, or a pencil line drawn

¹ This is apparent from the provisions as to classifying the rejected ballot papers in rule 36 of the Ballot Act, App. cviii.

² *Ante*, p. 85.

³ Ballot Act, sch. 2. "Form of directions for the guidance of the voter in voting," App. cxx.

⁴ "Mere clumsiness is not sufficient to disqualify." *Per* Lord Neaves, *Wigtown*, 2 O. & H. at p. 233.

⁵ *Woodward v. Sarsons*, L. R. 10 C. P. at p. 748.

through the name of the candidate not voted for, or a ballot paper torn longitudinally through the centre will not avoid the vote in the absence of evidence of pre-arrangement. But it was held in Scotland that if the voter put any mark other than a single cross upon his ballot paper he must be considered to have done so for the purpose of being identified,¹ also if he puts the cross on the left-hand side of the candidate's name instead of the right-hand side, that must be considered "a suspicious deviation from the statute."² But whatever the deviation be it is enough to entitle the Returning Officer to reject the ballot paper if the deviation be of "a description whereby the voter might be identified," and it is not necessary to prove a distinct intention on the part of the voter of being identified.³

In reporting to the Clerk of the Crown the number of ballot papers rejected by him, the Returning Officer is to classify those papers under these four heads, *i.e.* (1) Want of official mark. (2) Voting for more candidates than entitled to. (3) Writing or mark by which voter can be identified. (4) Unmarked or void for uncertainty.⁴ If a vote is rejected on any ground other than these four, it appears that it must be entered under a special head. All papers rejected by the Returning Officer as invalid are to be indorsed by him with the word "Rejected," and if any objection is made by an agent to the rejection of any paper he is to add to the en-

Report of
rejected
ballot papers
to Clerk of
the Crown.

¹ In the *Wigtown case*, 2 O. & H. 222, Lord Neaves said :— "If a voter, besides his proper cross, put one or more additional crosses, or puts circles or ovals, he raises a strong suspicion against himself and has himself to blame if his ballot paper is rejected."

² *Per* Lord Neaves, *ib.* 223.

³ *Per* Lord Ormisdale, *ib.* 225.

⁴ *Id.* rule 36, App. cviii.

⁵ For instance, that the mark was made upon the ballot paper with a pen and ink instead of the lead pencils provided by the Returning Officer. *Wigtown*, 2 O. & H. 218.

CHAP. IV. — dorsement the words "rejection objected to." If requested so to do, the Returning Officer is to allow any agent to take a copy of the report of the rejected ballot papers sent by him to the Clerk of the Crown.¹

Notice to be given of candidates elected.

As soon as possible after the counting is completed, the Returning Officer is to give public notice of the names of the candidates elected, and of the total number of votes given for each candidate, whether elected or not.²

In case of equality of votes.

If the votes for any candidates are equal, and the addition of a vote would entitle any of such candidates to be declared elected, the Returning Officer, if he is a registered elector, *may*, but he is not obliged to do so, give such additional vote, but he shall not in any other case be entitled to vote at an election for which he is Returning Officer.³ If the Returning Officer cannot vote,⁴ or does not choose to do so, he is to make a double return.⁵

Ballot papers, how to be disposed of.

The ballot papers and other documents relating to the election are then to be disposed of as fol-

¹ Ballot Act, rule 36, App. cviii.

² Ballot Act, rule 45 and s. 2. It is enacted as to Scotland in 16 Vict. c. 28, s. 8, App. xlix., that "where the sheriff shall not have received the poll books [now, ballot papers, &c., see Ballot Act, rule 38] transmitted from any island, the sheriff . . . shall . . . at the expiration of twelve days . . . proceed to declare the poll." It does not seem clear whether this enactment would *now* authorise the sheriff to declare the poll without counting the votes from the island, if they were delayed more than twelve days. This is not explained in the Scotch Home Office Abstract.

³ *Id.* s. 2, App. lxxxiv.

⁴ By s. 36 of 2 & 3 Will. IV. c. 65, App. xxvi. the sheriff is forbidden to vote at any election in Scotland holden in the county in which he is sheriff. See s. 38 of 2 & 3 Will. IV. c. 65, which imposes a penalty of £500 upon any sheriff who wilfully contravenes provisions of act.

⁵ As to petitioning in the case of a double return see Parl. El. Act, 1868, s. 40. There was a double return for Horsham in 1868 which was dealt with under this section. It seems that a treble return, such as there was for Knaresborough in 1852, would be dealt with in a similar way.

lows:—First of all the counted and rejected ballot papers are to be sealed up in separate packets.¹ The Returning Officer is then to verify,¹ in the presence of the agents, the ballot paper account, which each presiding officer is, as we have seen,² required to give him. This account shows, as we have seen,² the whole number of ballot papers entrusted to each presiding officer, and accounts for them under the heads of papers in the ballot box, unused, spoilt, and tendered papers. He will verify this account by opening the sealed packets (mentioned in paragraph 2 in rule 29) of unused and spoilt ballot papers, and counting the papers; by opening also the sealed packet containing the tendered votes list (mentioned in paragraph 5 in rule 29), and examining the tendered votes list. He will then add together the number of ballot papers found by him in the ballot box and recorded,³ and the number of spoilt and unused papers which he has just counted, and compare the result with each presiding officer's statement. He will thus see whether the statement is correct. It must be borne in mind that the Returning Officer is expressly forbidden⁴ to open the sealed packet of tendered ballot papers or the marked copy of the register, or the counterfoils, which packets are mentioned paragraphs (3) and (4) in rule 29. As soon as he has completed his verification of the ballot paper account he is to re-seal the packets which he opened.⁵ Finally, the Returning Officer is to make a written report of the result of this verification, which report any agent may, on request, take a copy of before it is sent away.⁵

CHAP. IV.

The last duty which the Returning Officer has to Documents
to be for-

¹ Ballot Act, rule 37, App. cviii.

² *Ante*, p. 39, and rule 30, App. cvii.

³ *Id.* rule 34, App. cviii.

⁴ *Id.* rule 37, App. cviii., and see dictum of Brett, J., in *Stowe v. Jolliffe*, L. R. 9 C. P. 452.

⁵ *Id.* rule 37, App. cviii.

CHAP. IV.

warded to
Clerk of the
Crown in
English and
Irish elec-
tions.¹

perform with regard to a contested election is, in England or Ireland,¹ to forward to the Clerk of the Crown² all the packets of ballot papers in his possession,³ together with the other documents relating to the election. These documents are as follows:—(1), Report as to rejected ballot papers;⁴ (2), report as to result of verification;⁵ (3), the ballot paper account made out and sent by each presiding officer;⁶ (4), the tendered votes lists;⁷ (5), the list of votes marked by the presiding officers, and the statements relating thereto; (6), the declarations of inability to read; (7), the packets of counterfoils; (8), the marked copies of the register; (9), any lists forwarded to him by any of the presiding officers of the names of persons protested against for personation.⁸ Upon each packet the Returning Officer is to endorse a description of its contents, the date of the election to which they relate, and the name of the county or borough for which such election was held.⁹

Custody and
despatch of
poll books in

These documents are to be forwarded to the Clerk of the Crown in the same manner as poll

¹ As to Scotland, see *infra*, p. 110.

² As to Ireland, see rule 62 of the Ballot Act, App. cxiii.

³ These consist of, 1st, the two separate packets of counted and rejected ballot papers (rule 37); 2ndly, two packets from each presiding officer, numbered 2 and 3 respectively in rule 29.

⁴ Ballot Act, rule 36, App. cviii.

⁵ *Id.* rule 37, App. cviii.

⁶ *Id.* rule 30, App. cvii., and by rule 38 the returning officer is expressly directed to forward this to the Clerk of the Crown.

⁷ By rule 38 the returning officer is expressly directed to forward to the Clerk of the Crown all the documents mentioned in paragraphs 4 and 5 of rule 29. We have seen above (p. 38, note ³) that it is advisable to put all these various documents in separate sealed packets.

⁸ We have seen above (p. 97, note ³) that it seems advisable for presiding officers to make lists of persons protested against for personation. If any such lists are made and forwarded to the returning officer, he should forward them with the other documents to the Clerk of the Crown, but there is no enactment as to this.

⁹ *Id.* rule 38, App. cviii.

books are by any existing enactment¹ required to be forwarded to such clerk, or as near thereto as circumstances admit, that is to say, the Returning Officer is either by himself or his agent to deliver them to the Clerk of the Crown or his deputy, or to deliver them, directed to such Clerk, to the Postmaster or deputy Postmaster of the place where the notice is given of the members elected,² who must give him a written acknowledgment of having received them (stating the hour of such delivery), and must keep a duplicate of such acknowledgment signed by such Returning Officer. The Postmaster, or deputy Postmaster, must despatch the poll-books, so sealed and directed, by the first post or mail after the receipt thereof, to the General Post Office in London (or Dublin, according to the country concerned). Immediately he receives them, the Postmaster, or Postmasters-General must convey them to the Crown Office (or to the Crown and Hanaper Office), and must deliver them there, so sealed, to the Clerk of such office, or his deputy; who must give such Postmaster or Postmasters-General, Sheriff, Under-Sheriff, Returning Officer, or Agent, delivering the books, a written acknowledgment of the receipt of them, stating the day and hour when they were delivered at the office. And such clerk or his deputy must, immediately on such receipt, register them in the books of the office, and indorse on them the day and hour of his receiving them. Moreover, the Returning Officer, must, at the time of transmitting the poll-books through the Post Office, address and forward a letter by the same

CHAP. IV.

England and
Ireland.

¹ See note 1 on page 108.

² The Act says "where proclamation was made of the members elected;" but by s. 15 of the Ballot Act, the term "proclamation," when used in former acts includes a public notice given in pursuance of the Ballot Act, so that it is now incumbent upon the returning officer to give the ballot papers, &c., to the Postmaster of the place where notice of the members elected is given.

CHAP. IV. — post or mail to the Clerk of the Crown, informing him of such transmission, and of their number and description.¹ The latter is required to keep them for one year, and then, unless otherwise directed by an order of the House of Commons, or of one of Her Majesty's Superior Courts, to cause them to be destroyed.²

Result of non-compliance with these enactments.

It may be here observed that these enactments with regard to the transmission of the poll-books, &c., were under the old practice almost always³ held to be directory only and not imperative, and consequently committees did not refuse to receive the poll-books, &c. in evidence, although it appeared that the statutory directions with regard to their transmission had not been complied with.⁴ It is now enacted⁵ that the production of any document by the Clerk of the Crown shall be conclusive evidence that such document relates to the election in question, but supposing it to have been proved that the directions of the Act as to the transmission of the ballot papers, &c. had not been complied with, it appears probable that the genuineness of the documents in question might be challenged. Such a point, however, has not yet arisen.

Inspection of counterfoils and counted ballot papers.

With regard to obtaining leave to inspect the ballot papers, after they have been sent to the Clerk of the Crown, the Ballot Act makes the following provisions :— The sealed packets of

¹ As to England and Wales, 6 Vict. c. 18, s. 63, App. xxxvi. ; as to Ireland, 13 & 14 Vict. c. 69, s. 99, was the enactment regulating the transmission of the poll books to the Clerk of the Crown in Dublin. This 99th section, however, is repealed by the Ballot Act (apparently inadvertently), so there is now no existing enactment for Ireland on this point. It appears, however, that it was intended that the ballot papers should be transmitted in the same manner as the poll books formerly were transmitted.

² Ballot Act, rule 39, App. cviii.

³ In *Waterford*, Bar. & Aust. 616, it was held otherwise.

⁴ See the cases under the old practice collected in Rogers on Elections, ed. 10, 288, 289, 489.

⁵ Rule 43, App. cx.

CHAP. IV.

counterfoils are not to be opened, neither are the counted ballot papers to be inspected except by an order of the House of Commons or of some tribunal having cognizance of election petitions. Such order may be made subject to such conditions as to the persons, time, place, and mode of opening or inspection as the House or the tribunal making the order may think expedient; but no such order, when or by whomsoever made, is to be put into effect with regard to the vote of any particular elector, until it has been proved that that elector actually did vote, and also until it has been declared by a competent court that his vote is invalid.¹

Leave to inspect ballot papers may be granted not only for the purposes of a contested election, but also in the case of any criminal prosecution, if the production of them is necessary.²

Rejected ballot papers may be inspected by order of the House of Commons, or of one of Her Majesty's Superior Courts, or of a Judge in Chambers, upon it being proved on oath that the inspection or production of such rejected papers is required³ for the purpose of instituting or maintaining a prosecution, or for the purpose of an election petition; but leave to inspect rejected ballot papers will not be granted unless a strong *prima facie* case is made out to warrant it.⁴ Such an order may make any condition that may seem expedient as to the person's time, place, and mode of inspection or production.⁵

¹ Ballot Act, rule 41, App. cx. See this rule discussed by Grove, J., in *Malcolm v. Parry*, L. R. 9 C. P. 623.

² *R. v. Beardsall*, L. R. 1 Q. B. D. 452.

³ According to Denman, J., this word "required" means "reasonably requisite and *bond fide* wanted." *Stowe v. Jolliffe*, at page 459.

⁴ *Per* Grove and Denman, JJ. (diss. Brett, J.), in *Stowe v. Jolliffe*, L. R. 9 C. P. 447.

⁵ *Id.* rule 40, App. cix. An order of this kind was made by the Irish Court of Common Pleas in the *Tyrone case* (*Macartney v. Corry*), Ir. Rep. 7 Com. L. 190. See also *Stowe v. Jolliffe* (*Petersfield case*), L. R. 9 C. P. 446.

CHAP. IV

Inspection
of marked
register.

It is competent to the Court, but not to a Judge in Chambers,¹ to grant inspection and a copy of the marked register of voters upon an affidavit by the agent of a petitioner that such inspection is requisite for the purpose of enabling him duly to prepare the petitioner's case; and this inspection may be granted, notwithstanding that the marked register is contained in the same sealed packet with the counterfoils of the ballot papers.²

Inspection
of other
documents.

All other documents sent to the Clerk of the Crown will be open to public inspection, at such time and under such regulations as may be prescribed by the Clerk of the Crown, with the consent of the Speaker, and the Clerk of the Crown is to supply copies or extracts from such documents to any person upon payment of such fees as may be sanctioned by the Treasury.³

The authenticity of any document produced by the Clerk of the Crown as relating to a specified election may not, as we have already seen,⁴ now⁵ be questioned, and any endorsement appearing on any packet of ballot papers so produced shall be taken as evidence of such papers being what they are stated to be by the endorsement. Also the production of a ballot paper shall be taken as *prima facie* evidence that the person whose number on the register has been marked on the counterfoil of the ballot paper voted with that ballot paper.⁶

Ultimate
disposition
of ballot
papers in

In Scotch elections the ballot papers and the other documents relating to the election are not to

¹ *Per* Grove, J., *Stowe v. Jolliffe*, 456.

² *Per* cur. *Stowe v. Jolliffe*, L. R. 9 C. P. 447. See also *James v. Henderson*, 30 L. T. N. S. 527.

³ *Id.* rule 42, App. cx. By 7 & 8 Will. III. c. 7, s. 5, App. ii., all persons are to have free access to the book in which the Clerk of the Crown enters all returns of members to serve in Parliament, and any person may on payment of a fee take a copy of any part of it.

⁴ *Ante*, p. 108.

⁵ Formerly the production of the poll books by the Clerk of the Crown did not preclude evidence being given to show that they had not been duly deposited or safely kept. *Wigan*, B. & Arn. 790. *Inverness-shire*, K. & O. 300.

⁶ Ballot Act, rule 43, App. cx.

be sent to the Clerk of the Crown, but are to be retained by the Sheriff Clerks of the respective counties. All the above-mentioned provisions, however, with regard to the inspection and production of ballot papers and election documents, apply to Scotland, the word "Sheriff Clerk" being substituted for "Clerk of the Crown."¹

CHAP. IV.
Scotch
elections.

The Return.] The return is the authoritative document by which the Returning Officer records the result of the election. It is now² made by a certificate of the names of the member or members elected, endorsed by the Returning Officer on the writ of election. This certificate should be in the form given in the schedule to the Ballot Act, and when made is to have effect and be dealt with in like manner as the return under the existing law.³ In Irish elections, in addition to the names of the candidates, the number of the votes given for each candidate must also be endorsed upon the writ.⁴

Return, how
made.

The writ thus endorsed may be delivered by the Returning Officer, if he think fit, to the Postmaster of the principal office of the place of election, or his Deputy, to be forwarded by the first post, free of charge, under cover to the Clerk of the Crown, with the words "Election Writ and Return" endorsed thereon. Upon the writ being so delivered to the Postmaster, he is to give the Returning Officer a receipt for the same.⁵

How for-
warded.

The return is not considered as made until the

When con-
sidered as
made.

¹ *Id.* rule 59, App. cxiii.

² As to how it was formerly made, see Rogers on Elections, ed. 12, p. 335.

³ *Id.* rule 44, App. cx. and Home Office Abstract, par. 45, App. cxlvii.; as to Scotland, see 2 & 3 Will IV. c. 65, s. 34, App. xxvi.

⁴ 1 Geo. IV. c. 11, s. 4, App. xi. and 4 Geo. IV. c. 55, s. 71, App. xvi., which also enacts that such certificate shall be admitted as evidence of the truth of the facts therein certified, unless disproved by contrary evidence.

⁵ Ballot Act, rule 44, App. cx.

CHAP. IV. writ, with the certificate of the Returning Officer endorsed upon it, actually reaches the hands of the Clerk of the Crown ; consequently, where the writ thus endorsed was left late one night by a special messenger sent by the Postmaster with a servant of the housekeeper of the office of the Clerk of the Crown, and did not reach the Clerk himself until the next morning, it was held that the return had not been made until the morning on which it actually reached the Clerk's hands.¹

How dealt
with by the
Clerk of the
Crown.

Upon receiving a return it is the duty of the Clerk of the Crown to enter it in a book to be kept for that purpose, and also to enter in it any alteration or amendment which may subsequently be made in the return. This book will be kept open for inspection by any person who desires to inspect, or to take a copy of any portion of it. If the Clerk of the Crown does not within six days after receiving any return enter it in his book, or if he make any alteration in the return, except by order of the House of Commons, he will be liable in the penal sum of £500, he will also forfeit his office, and be for ever incapable of having or holding the same.²

Amendment
of.

If it becomes necessary to amend the return in consequence of an unsuccessful candidate being seated on petition, the Clerk of the Crown is ordered to attend at the bar of the House of Commons for the purpose of erasing the name of the person whom the Election Judge has unseated, and inserting instead the name of the successful petitioner.³

Such being the prescribed form of making a return, it remains to speak of its substance.

False return.

Every Returning Officer in England and Wales who wilfully makes a return contrary to the last determination of the House of Commons respecting the right of election in the place concerned, is to be

¹ *Hurdle v. Waring*, L. R. 9 C. P. 435 (*Poole case*).

² 7 & 8 Will. III. c. 7, s. 5, App. ii.

³ Parl. El. Act, 1868 (31 & 32 Vict. c. 125), s. 13.

adjudged guilty of a false return;¹ and is liable, together with those who procure it to be made, to be sued, within two years after the cause of action arises, in any of the Superior Courts for double damages and full costs of suit, by any person duly elected at the election.² As an instance of this offence, may be mentioned a case where the Returning Officer made a colourable majority by adding up the tendered and disallowed votes together with those which were allowed; in consequence of which the return was pronounced fraudulent.³ A Returning Officer is also liable to the last-mentioned penalty if he wilfully, falsely, and maliciously return more persons than are required to be chosen by the writ.⁴

CHAP. IV.

Moreover, if a Returning Officer wilfully delays, neglects, or refuses duly to return any person who ought to be returned, such a person may, after obtaining a decision on the hearing of an Election Petition under the Parliamentary Election Act, 1868,⁵ that he ought to have been returned, sue the Returning Officer in any Court of Record at Westminster, and recover double damages, with costs of suit; provided that the action is commenced within a year of the offence complained of, or within six months after the conclusion of the trial of the Election Petition.⁶

¹ 7 & 8 Will. III. c. 7, s. 1, App. i.

² *Id.* ss. 2, 6, App. i. ii.

³ *Caernarvon*, P. & K. 106; C. & R. 127.

⁴ 7 & 8 Will. III. c. 7, s. 3, App. i.

⁵ It must be observed that an action can only be brought after an election petition has been tried under the Parl. El. Act, 1868; see s. 48 of that Act. If therefore an election is now inquired into by a select committee of the House of Commons (as the election of Sir Sidney Waterlow for Dumfriesshire was inquired into in March, 1869) it would seem that no action could be brought against a returning officer, for an action will not lie at common law either for a double or a false return *Barnardiston v. Some*, 2 Lev. 114; *Prideaux v. Morris*, 7 Mod. 14.

⁶ 31 & 32 Vict. c. 125, s. 48. By 2 Will. IV. c. 45, s. 76, App. xxi., the returning officer is liable in England to be sued for £500 for wilfully contravening the provisions of that Act,

CHAP. IV.

If Returning
Officer inca-
pacitated to
make return.

If the Returning Officer, after receiving the writ, but before he has completed the return, dies or becomes otherwise incapacitated from performing his duties, the Under-Sheriff, in the case of English counties,¹ is to execute all things belonging to the office until another Sheriff is appointed; and in the case of English boroughs, the Sheriff of the county is to perform these duties.² As to Scotch and Irish constituencies, it has already³ been explained who is to complete the election if the Returning Officer is from any cause unable to do so.

Uncondi-
tional
return.

In the next place, a return must be unconditional; in fact, it appears that a return made subject to a condition will operate as if it was absolute.⁴

Special
return.

A special return, declaring no one returned, and stating the particular facts which justify it, will, however, be permitted where, all reasonable efforts having been made to conclude the election, it has, nevertheless, failed of being brought to a lawful close, in consequence of riot or other causes.⁵ But the House has committed to Newgate Returning Officers who have not been able to satisfy it that such reasonable efforts were really made.⁶ It is advisable, if an election has been attended with any irregularities, to make a special indorsement on the writ stating the circumstances.⁷

and by 2 & 3 Will. IV, c. 65, s. 38, App. xxvii. to a similar penalty in Scotland. He is also liable in England, in common with other persons, to forfeit a hundred pounds for any wilful breach of any of the provisions in 6 Vict. c. 18 (see s. 97; and as to Ireland, 13 & 14 Vict. c. 69, s. 103), and by s. 11 of the Ballot Act every returning officer, presiding officer, and clerk who is guilty of any wilful act or omission in contravention of the Ballot Act, is liable, in addition to any penalty, to forfeit £100. *Pickering v. James*, L. R. 8 C. P. 489.

¹ 3 Geo. I. c. 15, s. 8, App. iii.

² 17 & 18 Vict. c. 57, App. li.

³ *Ante*, p. 15.

⁴ It is so stated in *Rogers on Elections*, ed. 12, p. 342, but no authority is given for the statement.

⁵ *Knarborough*, 2 Peck. 383.

⁶ *Leicestershire*, 18 Com. J. 21; *Coventry*, 38 *ib.* 8; 2 *ib.* 22, 23.

⁷ See special indorsement on the writ set out in the petition in the *Hackney case*, 2 O. & H. 77.

If the votes are equal, and the Returning Officer does not give a casting vote, a double return must, as we have seen,¹ be made.² Both the members so returned may claim to be sworn, and to take their seats in the House; but neither can vote until his rival's claim is disposed of.³ Where an Election Petition complains of a double return, and the Respondent has given due notice that he does not intend to oppose the petition, and no party has been admitted to defend the return, and there is no petition complaining of the other member so returned, the Petitioner may withdraw his petition by a proper notice; and, upon receipt of the notice, the prescribed officer must report such withdrawal to the Speaker; whereupon the House will direct the double return to be amended by taking off the file the certificate by which the Respondent was returned.⁴

CHAP. IV.
Double
return.

The question has often been discussed as to whether, in the event of the Returning Officer erring inadvertently in *any* portion of his duties, he is liable to actions brought by persons aggrieved by the error.⁵ His duties are still partly judicial

Returning
Officer's
responsi-
bility for
error.

¹ *Ante*, p. 104.

² In Rogers on Elections, ed. 12, pp. 337-339, it is stated that a double return may also be made in case a disqualified candidate be elected. The Ballot Act, s. 2, enacts that the returning officer "shall declare to be elected the candidates to whom the majority of votes have been given, and return their names to the Clerk of the Crown," without any allusion to their qualification. Since the passing of the Ballot Act the question of disqualification has arisen in two cases, *i.e.* *Tipperary*, 3 O. & H. 19, and *Galway*, 2 O. & H. 46, and in each case the returning officer has returned the candidate alleged to be disqualified without making a double return.

³ Report, Oaths of Members, 1848, Q. 23-25; *Knaresborough*, Com. J. 852; May's Parl. Pr. ed. 7, p. 644.

⁴ Parl. El. Act, 1868 (31 & 32 Vict. c. 125), s. 40. There has been only one return dealt with under this section, namely, for Horsham, in November, 1868. See certificates and reports received from the judges, and ordered by the House of Commons to be printed, May 3, 1869.

⁵ As to which of his duties may now be considered judicial

CHAP. IV. and partly ministerial. As to his judicial duties, it seems clear that he is only liable to an action for wilful misconduct.¹ But for a mistake made by him in the exercise of any of his ministerial duties he has been held to be liable, although he has acted without malice.²

No fees
allowed for
making
return.

The Returning Officer is not entitled to any fees for making out the return,³ nor is the Clerk of the Crown for receiving it, the Act of 10 & 11 Will. III., c. 7, s. 1, having been repealed by the Ballot Act.

Claims on
candidates
when to be
sent in.

Election Expenses.] We have already seen⁴ that on or before the nomination day candidates⁵ must declare in writing to the Returning Officer the name and address of some person or persons to act as agent for election expenses,⁶ and that it is a misdemeanour to make any payment in respect to an election otherwise than through such agent.⁷ All persons, other than the Returning Officer, who have any bills, claims, or charges against any candidate in respect of the election must send them to such agent within one month from the day of the declaration of the election, otherwise such persons will be barred of their right to recover such claims.⁸ If a creditor dies within the month, his legal representative must send in the bill, claim, or charge, within a month of obtaining probate, or letters of administration, or

and which ministerial, see Rogers on Elections, ed. 12, p. 319, note (w).

¹ See *Cullen v. Morris*, C. & D. 163, and *Harman v. Tappenden*, 1 East, 562; both commenting on *Ashby v. White*, 2 Ld. Raym. 938; 1 Bro. Parl. Cas. 47; 8 State Tr. 89; Burnet's Hist. vol. iv. p. 31.

² *Pickering v. James*, L. R. 8 C. P. 489.

³ 7 & 8 Will. III. c. 25, s. 2, App. iii.

⁴ *Ante*, p. 73.

⁵ As to the meaning of the expression "candidates at an election," see below, p. 142.

⁶ As to what items should be included in the return of election expenses, see *dicta* of Willes, J., in *Penryn case*, 1 O. & H. 131. See also *Grant v. Guinness*, 25 L. J. C. P. 70.

⁷ 26 Vict. c. 29, s. 2, App. lxx.

⁸ *Ib.* s. 3, App. lxvi.

confirmation, as executor. It is also provided that if, and so long as, during the month, there shall be, owing to death or legal incapacity, no authorised agent, the bills, claims, or charges, are to be sent in to the candidate himself.¹

CHAP. IV.

Within two months after the election (or where by reason of the creditor's death, no bill has been sent in within the two months, then within one month after it has been sent in) a detailed statement of all election expenses² incurred by, or on behalf of the candidate, including payments for his personal expenses in relation to the election,³ must be made out and signed by the agent, or agents, who has, or have, paid the same, or by the candidate in respect of any payments made by himself; and must be delivered, with the bills and vouchers relative thereto, to the Returning Officer. And within fourteen days afterwards the Returning Officer is, at the candidate's expense, to insert, or cause to be inserted, an abstract of such statement, with the signature of the agent thereto, in some newspaper published or circulating in the county or place where the election was held.⁴ Any agent or candidate making default in delivering such statement to the Returning Officer, will incur a penalty not exceeding five pounds for every day during which he so makes default. Any agent or candidate wilfully furnishing to the Returning Officer an untrue statement is guilty of a misdemeanour, or, in Scotland, of an offence punishable with fine and imprisonment. The Returning Officer

Publication and inspection of statement of election expenses.

¹ 26 Vict. c. 29, s. 3, App. lxvi.

² As to disputed claims, see *Richardson v. Chasen*, 10 Q. B. 756. In the *Penryn case*, 1 O. & H. 181, it was held that expenses connected with registration are not election expenses within the meaning of the Corrupt Practices Act, 1854.

³ As to the meaning of "personal expenses," see 17 & 18 Vict. c. 102, s. 38, App. lvii. and *Grant v. Guinness*, 17 C. B. 190.

⁴ The expense of this publication of accounts is expressly excepted from the operation of the 38 & 39 Vict. c. 84. See s. 4 of that Act, App. post, and notice of election, ante, p. 21.

CHAP. IV.

is to preserve all such bills and vouchers, and during six months after their delivery to him, to permit any voter to inspect them on payment of a fee of one shilling.¹ He is not, however, bound to permit copies to be taken of such bills or vouchers, but if he is requested to do so, it is advisable that he grant leave.²

Claims of
Returning
Officer
against
candidates
in England
and Ireland.

With regard to the expenses incurred by the Returning Officer in conducting the election, it is enacted as to England and Ireland³ that the Returning Officer must within twenty-one days after the making of the return transmit to each candidate or his agent for election expenses, a detailed account showing the amounts of all the charges claimed by the Returning Officer in respect of the election, and the share of such charge which the candidate is liable to pay, and to this account he must annex a notice of the place where the vouchers relating to the account may be seen. The Returning Officer will not be entitled to recover any charges which are omitted from this account. If a candidate objects to any part of this claim, he may, within fourteen days after receiving the account, apply to the County Court which has jurisdiction at the place of nomination for a taxation of the account, and then after taxation the amount of the claim which is found by the Court to be due may be recovered from the candidate in the same way in which a judgment is usually recovered, with or without costs, as the Court shall think fit.

¹ 26 Vict. c. 29, s. 4, App. lxvi. It may be observed that it was held, in several of the petitions tried by the judges, that non-compliance with the provisions of this enactment is *prima facie* evidence of corrupt practices on the part of the candidate and his agents. See *per* Blackburn, J., in *Bewdley case*, 1 O. & H. 20, and *per* Martin, B., in *Bradford case*, 1 O. & H. 33. Also, if an unsuccessful candidate does not send in a detailed account of his expenses pursuant to this above enactment, it may be considered as a ground for saddling him with his own costs, though he succeeds in unseating his opponent on petition; *per* O'Brien, J., in *Youghal case*, 1 O. & H. 299.

² *Per* Bramwell, B., *Durham*, 2 O. & H. 135.

³ 38 & 39 Vict. c. 84, s. 4, App. *post*.

Until recently there was no statutory enactment with regard to claims against Returning Officers for work done for election purposes, but it is now provided, with regard to England and Ireland,¹ that every person having any claim against a Returning Officer for work, labour, materials, services, or expenses in respect of any contract made with him by or on behalf of the Returning Officer for the purposes of an election, except for publication of accounts of election expenses, shall, within fourteen days after the return has been made, transmit to the Returning Officer the detailed particulars of such claim in writing, and that the Returning Officer shall not be liable in respect of anything which is not duly stated in such particulars.² If any such claim is afterwards disputed by the candidates, who are the persons ultimately liable, they may be adjudicated upon by the County Court to which the Returning Officer's claim may be referred by the candidate for the purposes of taxation, and the decision of such Court with regard to such claim will be final for all purposes and as against all persons.

CHAP. IV.
 Claims
 against
 Returning
 Officers to be
 sent in with-
 in 14 days
 after the
 election.

¹ 38 & 39 Vict. c. 84, s. 11, *App. post.*

² *Ib.* s. 5.

CHAPTER V.

ELECTIONS AT UNIVERSITIES.

As neither the provisions of the Ballot Act¹ (except such as relate to personation) nor those of the Parl. El. (Returning Officers) Act, 1875,² or the Parl. El. (Returning Officers) Expenses Scotland Act, 1878,³ apply to any University election, it has been thought more convenient to treat this subject in a separate chapter.

The Writ.] The same form of writ will continue to be used in University elections as has always been hitherto used, and, so far as relates to Oxford and Cambridge, it must be framed and expressed in such manner and form as may be necessary for carrying the provisions of 16 & 17 Vict. c. 68, into effect.⁴ As to the other Universities, there are no special statutory provisions as to the form to be used.

Writ, to whom directed.] The writs for the election of members for Oxford, Cambridge, and London Universities must be directed and forwarded in the same manner as has been already described⁵ to the respective Vice-Chancellors of those Universities.⁶ The writ for the election of the member who is to be returned jointly⁷ by the

¹ Ballot Act, s. 31, App. ci.

² 38 & 39 Vict. c. 84, s. 11, App. post.

³ 41 & 42 Vict. c. 41, s. 5, App. post.

⁴ 16 & 17 Vict. c. 68, s. 1, App. l.

⁵ *Ante*, p. 16.

⁶ 16 & 17 Vict. c. 68, s. 1, App. l. ; 30 & 31 Vict. c. 102, s. 41, App. lxx.

⁷ 31 & 32 Vict. c. 48, s. 9.

Universities of Edinburgh and St. Andrew's is to be directed to the Vice-Chancellor of Edinburgh University,¹ and for Glasgow and Aberdeen Universities to the Vice-Chancellor of Glasgow.¹ There is no statutory enactment as to whom the writ for Dublin University is to be addressed, but ever since the University has returned members, the writ has always been addressed to the Provost of Trinity College, Dublin, and he is recognised as the Returning Officer in the Voting Papers Act of 24 & 25 Vict. c. 53, s. 2.²

CHAP. V.

As to the Universities of Oxford, Cambridge, London, and Dublin, there is no statutory enactment as to who is to act as Returning Officer if the office is vacant, or the Returning Officer disabled; but as to the Scotch Universities, if the Vice-Chancellor is absent or disabled by illness, or if the office is vacant, his duties as Returning Officer are to be discharged by a person appointed for that purpose by the University Court of such University, and who in that respect alone, and for the time, is to be deemed to be Vice-Chancellor of the University.³

Who is to act as Returning Officer if office vacant, or Returning Officer disabled.

Upon the receipt of the writ, the Vice-Chancellor of the Universities of Oxford, Cambridge, and London must give public notice of the time and place of the election at the usual place or places. From October 25 to March 25 inclusive, this notice must be given between 8 A.M. and 4 P.M., and from March 25 to October 25 inclusive, between 8 A.M. and 6 P.M., and no such notice will be valid unless published in the manner and within the time of day aforesaid.⁴

Notice of election, how given for English Universities.

¹ *Id.* s. 37, App. lxxiv.

² App. lx. The charter by which the Provost, Fellows, and Scholars were empowered to return two members to Parliament was granted to the University by James I. See Hudson on Irish Elections, p. 154.

³ 31 & 32 Vict. c. 48, s. 41, App. lxxvii.

⁴ 33 Geo. III. c. 64, App. vi. By 30 & 31 Vict. c. 102, s. 42, App. lxx., notice of election for London University must

CHAP. V.
For Scotch
Universities.

For elections for Scotch Universities, the Returning Officer must give notice within three days of the receipt of the writ of the time and place for holding the election. The notice is to be given by advertisement in such newspapers as the Returning Officer shall deem expedient, and also by sending within the said three days notice in writing to the Vice-Chancellors of St. Andrew's and Aberdeen, as the case may be.¹

Time and
place of elec-
tion, Oxford
and Cam-
bridge Uni-
versities.

There is no special place prescribed by statute for holding elections for Oxford or Cambridge Universities, and there is now² no statutory enactment as to the day on which the election for Oxford or Cambridge University is to be held, as s. 3 of 16 & 17 Vict. c. 68, which formerly regulated the time for holding these elections, has been repealed by the Ballot Act, and no enactment substituted in its place. Consequently the Returning Officer of these Universities is at liberty to hold the election on what day he pleases.

For London
University.

An election for London University must be held at the place mentioned in the notice of election³ within six days after the receipt of the writ, three clear days' notice of the day and place having been

be given so as to leave three clear days, exclusive of the day on which the notice is given and also of the day of election.

¹ 31 & 32 Vict. c. 48, s. 37, App. lxxiv.

² In answer to a question addressed to him in the House of Commons by Mr. Hardcastle, July 7, 1873 (Hans. vol. cxvi. p. 1862), Mr. Forster said that it was not the intention of the Government to bring in any bill to regulate the time for holding elections for the Universities of Oxford, Cambridge, and Dublin, because in his opinion s. 3 of 16 & 17 Vict. c. 68, did not apply to University elections, and that therefore the repeal of that section by the Ballot Act made no difference to University elections. It is difficult to understand on what grounds Mr. Forster came to the opinion that this repealed section did not apply to University elections, inasmuch as it enacted that "in every . . . place returning . . . a member or members to serve in Parliament in England and Wales the officer to whom the duty of giving notice for the election of such member or members belongs shall proceed to election within six days after the receipt of the writ."

³ 30 & 31 Vict. c. 102, s. 42, App. lxx.

given, exclusive of the day on which the notice is given and the day of election.¹ CHAP. V.

An election for a Scotch University must be held not less than three nor more than six clear days after the day on which the writ is received.² For the Universities of Edinburgh and St. Andrew's the place must be within the City of Edinburgh, and for the Universities of Glasgow and Aberdeen, within the City of Glasgow.³ For Scotch Universities.

If at the time and place named for holding the election no more candidates are proposed than there are vacancies to fill, those candidates will be forthwith declared elected; but if more candidates are proposed than there are vacancies to fill, a show of hands must be taken as heretofore, and then a poll may be demanded for the candidate or candidates who have the best show of hands. Mode of election.

The poll for Oxford and Cambridge University elections must commence upon the day on which the same shall be demanded, or upon the next day at furthest, unless it happen to be a Sunday, and then on the day after.⁴ For the University of London it commences at eight in the morning on the day next following the day fixed for election. For the Scotch Universities, if, on repairing to the place named for holding the election, a poll is demanded, the proceedings shall be adjourned for the purpose of taking the poll for not less than six or more than ten clear days, exclusive of Saturdays and Sundays, and notice of the day fixed for the poll is to be given by advertisement in such newspapers as the Returning Officer shall deem expedient.⁵ The poll at all University elections may continue for not more than five days,⁷ and Commence ment and duration of poll.

¹ 30 & 31 Vict. c. 103, s. 42, App. lxx.

² 31 & 32 Vict. c. 48, s. 37, App. lxxiv.

³ *Ib.*

⁴ 25 Geo. III. c. 48, s. 1, App. vi.

⁵ 30 & 31 Vict. c. 102, s. 43, App. lxxi.

⁶ 31 & 32 Vict. c. 48, s. 38, App. lxxiv.

⁷ For Oxford and Cambridge, see 16 & 17 Vict. c. 68, s. 4,

CHAP. V. — must commence at 8 A.M. and close at 4 P.M. each day for London and the Scotch Universities;¹ but for Oxford and Cambridge Universities the poll must be kept open for seven hours at least, between 8 A.M. and 8 P.M.²

The poll for Oxford, Cambridge,³ and the Scotch Universities⁴ goes on continuously from day to day, Sundays only excepted; but for London University,⁵ Christmas, Ascension Day, and Good Friday are excepted as well as Sunday.

Polling places.

For London and the Scotch Universities there may be only one polling place, which the Vice-Chancellor must appoint;⁶ for Oxford and Cambridge, any number not exceeding three may be appointed in addition to the House of Convocation or Senate House, and the Vice-Chancellor is to direct at which of such polling places the members of Convocation and of the Senate, according to their Colleges, shall vote.⁷

Appointment of Pro-Vice-Chancellors and poll clerks.

The Vice-Chancellor of the various Universities may appoint any number of Pro-Vice-Chancellors, any one of whom may receive the votes and decide upon all questions during the absence of any such Vice-Chancellor, and may also appoint poll clerks and other officers, by one or more of whom the votes may be entered in such number of poll books as shall be judged necessary by the Vice-Chancellor.⁸

How votes

The electors at all University elections may vote

App. 1.; for London, 30 & 31 Vict. c. 102, s. 43, App. lxxi., and for Scotch Universities, 31 & 32 Vict. c. 48, s. 39 (1), App. lxxv. There is no statutory enactment as to the time for keeping open the poll at Dublin University, but it is usual to keep it open for five days; see below, p. 127, note 3.

¹ 30 & 31 Vict. c. 102, s. 43, and 31 & 32 Vict. c. 48, s. 39 (1).

² 25 Geo. III. c. 84, s. 3, App. vi.

³ *Ib.*

⁴ 31 & 32 Vict. c. 48, s. 39 (1), App. lxxiv.

⁵ 30 & 31 Vict. c. 102, s. 43, App. lxxi.

⁶ 30 & 31 Vict. c. 102, s. 44, App. lxxi., and 31 & 32 Vict. c. 102, s. 39 (2), App. lxxi.

⁷ 16 & 17 Vict. c. 68, s. 5, App. li.

⁸ 16 & 17 Vict. c. 68, s. 5, App. li.; 30 & 31 Vict. c. 102, s. 44, App. lxxi.; 31 & 32 Vict. c. 48, s. 39 (2), App. lxxiv.

either in person or by voting papers. If they vote in person, the Returning Officer, or his deputy, may, if required to do so, before receiving the vote, put to the elector the same questions, and require him to make the same statutory declaration, as at other elections ;¹ and upon the elector satisfying these statutory tests, the vote must be received and entered in the poll book.² In lieu of attending to vote in person, any elector may vote by means of a voting paper, which must be filled up in accordance with the provisions of the Voting Papers Acts.³

CHAP. V.

may be given.

The result of the election for the Universities of Oxford and Cambridge is to be declared fairly and publicly, either immediately after or on the day next after the final close of the poll ;⁴ for the University of London the declaration must be not later than 2 P.M. on the day following the close of the poll.⁵

Declaration of persons elected, when to be made.

As to the Scotch Universities, as soon as the poll is closed the poll books must be delivered by the Pro-Vice-Chancellors to the Vice-Chancellor of his University ; and the Vice-Chancellors of St. Andrew's and Aberdeen respectively shall on receiving such poll books immediately transmit them to the Vice-Chancellor who is Returning Officer, and such Vice-Chancellor shall within three days after such poll books have been re-

Scotch Universities.

¹ 6 Vict. c. 18, ss. 81, 82, App. xxxiii.

² See *ante*, p. 90, as to the power of compelling voters at Scotch borough elections to make any statutory declaration, or to refuse his vote, in the event of the returning officer believing him to be a personator.

³ As to Oxford, Cambridge and Dublin, 24 & 25 Vict. c. 53, App. lx. and 31 & 32 Vict. c. 65, App. lxxx. ; as to the Scotch Universities, 31 & 32 Vict. c. 48, s. 39 (4), App. lxxv. It is expressly enacted in s. 6 of 24 & 25 Vict. c. 53, that these voting papers are not liable to any stamp duty. This was decided to be so with regard to voting papers used at municipal elections in *R. v. Strachan*, L. R. 7 Q. B. 465.

⁴ 25 Geo. III. c. 84, s. 3, App. vi.

⁵ 30 & 31 Vict. c. 102, s. 44, App. lxxi.

CHAP. V. ceived by him, in presence of the candidates or of any agents appointed by them, cast up the number of votes and forthwith publish in the *Edinburgh Gazette* the name of the successful candidate.¹

Return, to whom to be made.

The return is to be made to the clerk of the Crown forthwith,² and for English Universities must be certified together with the writ.³

There is no statutory enactment as to making a double return for English Universities ; but if the votes are equal at an election for a Scotch University, the Returning Officer is expressly ordered to make a double return.⁴

Custody of the poll books.

The poll books for English University elections are to be forwarded to the Clerk of the Crown in the same manner as they have been heretofore forwarded.⁵ There is no statutory enactment as to what the Vice-Chancellors of the Scotch Universities are to do with the poll books ; but they are apparently to remain in their custody.⁶

Expenses of elections for Scotch Universities.

The statutory provisions as to the expenses of the Scotch University elections are as follows. The Vice-Chancellor to whom the writ is directed is allowed in Exchequer such payments for executing the writ as are allowed to Sheriffs in elections for Scotch counties or burghs. The necessary expenses incurred by Vice-Chancellors in the transmission or receipt of poll books or other communications, or in making any required advertisements, are to be defrayed by the candidates between them. Whenever a poll is demanded, the candidates are also to contribute to each Pro-Vice-Chancellor for superintending the poll a fee of three guineas for

¹ 31 & 32 Vict. c. 48, s. 39 (3), App. lxxv.

² 25 Geo. III. c. 84, s. 3, App. vi. and 31 & 32 Vict. c. 48, s. 39 (3), App. lxxv.

³ 16 & 17 Vict. c. 68, s. 1, App. 1.

⁴ 31 & 32 Vict. c. 48, s. 39 (3).

⁵ 6 Vict. c. 18, s. 93, App. xxxvi.

⁶ The ballot papers in Scotland remain in the custody of the sheriff's clerk, Ballot Act, rule 59, App. cxii.

the first and of one guinea for each subsequent day, and to each poll clerk one guinea a day. And if any person is proposed as a candidate without his consent, the proposer is to be liable to all the above expenses as if he was a candidate.¹

CHAP. V.
—

Dublin University.] There never was any statutory enactment as to the place at which an election for Dublin University is to be held, and, as the statutes² which formerly regulated the time for holding the elections for Dublin University in common with other Irish boroughs are repealed by the Ballot Act, there is now no legislative provisions for the day on which the election is to be held, or the poll to be taken in the event of contest, or the result of the election declared,³ but the Voting Papers Act, above described, applies to this University.⁴

¹ 31 & 32 Vict. c. 48, s. 40, App. lxxvii.

² 25 & 26 Vict. c. 92, s. 2; 2 & 3 Will. IV. c. 88, s. 52. It may be observed that in 13 & 14 Vict. c. 68, s. 17 (App. xli.) Dublin University is recognised as being a borough.

³ At the election in Jan., 1875, the poll was opened on Monday, Jan. 18, at 10 a.m. (the nomination having been held on Saturday, Jan. 16), and was kept open for five days until 3 p.m. each day. The result of the poll was declared on Friday, Jan. 22, immediately after the poll had been closed.

⁴ *Ante*, p. 125, note 3.

CHAPTER VI.

AVOIDANCE OF ELECTIONS ; BRIBERY ; TREATING : UNDUE INFLUENCE ; IRREGULARITIES IN CONDUCT OF ELECTION.

THE law must now be considered by which the exercise of the privilege of choosing a Member of Parliament is guarded from corruption, violence, and irregularities in the conduct of the election.

Bribery
an offence
at common
law.

Bribery.] The offence of bribing an elector was always punishable at common law independently of statute:¹ and, though the Corrupt Practices Act, 1854, is so wide and stringent, that obedience to its provisions will effectually secure impunity at common law, yet, practically, the common law rules cannot safely be disregarded—not merely because they are required to interpret the statute itself—but because the latter may often be evaded through the technicalities of penal actions. The offence will, therefore, be considered here, first, as it exists at common law ; and next, as it exists by statute.

Bribery
defined.

Bribery at common law is a misdemeanour: and is committed whenever a vote is procured from, or disposed of by, an elector for a valuable consideration,² both parties to the transaction agreeing in that intent; and the offence of bribery will be equally complete, whether the elector, after having been bribed, actually votes or not.³ It is also immaterial how long before an election the bribe is

¹ *R. v. Pitt*, 3 Bur. 1338, 1 W. Bl. 382.

² As to "valuable consideration," see *post*, p. 144.

³ *Per* Willes, J., in *Lichfield case*, 1 O. & H. 29.

given; "any act committed previous to an election with a view to influence a voter at the coming election, whether it is one, two, or three years before, is just as much bribery as if it was committed on the day before the election or the day of the election."¹ And as every attempt to commit a misdemeanor is itself a misdemeanor,² the mere offer of a bribe to an elector,³ or his solicitation of one,⁴ is punishable. But though the bare attempt is punishable as a misdemeanor, it does not therefore amount to *bribery*, nor involve the civil consequences of that offence.⁵ Both the giver and recipient of a bribe are punishable.⁶ Again, the offence may be committed under various colourable pretexts; as, for instance, where a man offers to bet against his own side with a voter. The intention of the person making the offer would, in such a case, be presumed to be corrupt, and the bet, if taken, would, as regards him, be a bribe. Moreover, if the vote were given in accordance with the corrupter's intention, the voter also would be guilty of bribery, provided that he was aware of that intention.⁷ But a *bond fide* wager on the result of an election has never been deemed bribery or criminal at common law.⁸ Lastly, the premium offered need not be money: if a voter is purchased

¹ *Per* Keogh, J., Sligo, 1 O. & H. 302, and in the *Stroud case*, 2 O. & H. 186, Bramwell, B., said it was immaterial when the bribery took place, so long as it was "operative on the election."

² Archbold's Cr. Prac. (13th ed.) 2.

³ *R. v. Vaughan*, 4 Burr. 2500.

⁴ It seems doubtful whether the mere solicitation of a bribe, not followed up by an agreement to that effect, is an offence at common law. *Per* Morris J. in *Mallow case*, 2 O. & H. 22.

⁵ *Ipswich*, B. & Aust. 260; *New Windsor*, K. & O. 194.

⁶ "Wherever it is a crime to take, it is a crime to give; they are reciprocal." *Per* Lord Mansfield, in *R. v. Vaughan*, 4 Burr. 2500.

⁷ See *per* Buller, J., *Allen v. Hearn*, 1 T. R. 60.

⁸ *Jones v. Randall*, Cowp. 39; *Anon.*, Loft. 552; *Youghal*, F. & F. 404; *Monmouth*, K. & O. 416. But see *New Windsor*, K. & O. 195; *Worcester*, *ib.* 254.

CHAP. VI. by refreshment,¹ the payment of travelling expenses,² or by any other valuable consideration,³ it is bribery at common law.¹

Cases which the common law does not reach :

If the above definition of the offence be correct, very little consideration is needed to perceive that the common law fails to reach many acts which morally amount to bribery, and which could not be left unchecked without danger of wholesale corruption. For instance:—according to the definition, the crime would not be committed by one who unsuccessfully sought to sell his vote; or who sold it without performing, or intending to perform, his contract:⁴ or where there was no agreement previous to the vote;⁵ or where it was unperformed on either side; or where the bribe was for refraining to vote; or for obtaining a third party's vote; nor, finally, would the offence be committed by one who chose unprincipled agents, in order to be returned through the bribes which he anticipated

¹ *Hughes v. Marshall*, 2 C. & J. 118; *Bradford case*, 1 O. & H. 40.

² In the *Dublin Case*, 1 O. & H. 273, Keogh, J., said: "In 1784 a bill was introduced providing that the payment of travelling expenses should be subjected to the penalties of bribery . . . but Lord Mansfield spoke against it and defeated it, saying that the payment of travelling expenses was clearly subject to the penalties of bribery, and no statute was required to make them illegal."

³ Lord Glanbervie's definition of bribery at common law, 2 Dougl. 400, is as follows: "Wherever a person is bound by law to act without any view to his private emolument, and another, by a corrupt contract, engages such person on condition of the payment or promise of money or other lucrative consideration to act in a manner which he shall prescribe, both parties are by such contract guilty of bribery." In the *Dublin case*, 1 O. & H. 273, Keogh, J., said: "I should have thought that any conditional inducement of any kind to induce a voter to vote in a particular way was from the earliest times clear and unmistakable bribery."

⁴ See the doubts raised on this point in *Henslow v. Fawcett*, 3 A. & E. 51, even under the seventh section of 2 Geo. II. c. 24 (repealed); *Harding v. Stokes*, 2 M. & W. 235.

⁵ *Huntingtower v. Gardiner*, 1 B. & C. 297; *Sudbury*, 2 Doug. 137; *Cirencester*, 1 Peck. 466.

they would administer without his authority, even though the anticipation were realised. CHAP. VI.

By the common law, bribery is punishable, both in the Superior Courts and in Parliament. How punishable in courts of law. In the former, it may be prosecuted either by indictment or information,¹ and may be visited with fine and imprisonment.² There is, indeed, no record of the law on this head having been enforced by the tribunals before the passing of the Bribery Act³ of 1729; but this has been adequately explained⁴ by the peril which, in those days, attended anything that could be construed into meddling with parliamentary privilege—a consideration which may have heightened the diffidence quaintly expressed by an old judge, when he was pressed to decide some matter of the kind:—"The determination of this is particularly reserved to the Parliament: we are not acquainted with the learning of elections, and there is a particular cunning in it not known to us."⁵

Of course, it follows from what has been said, that contracts tainted with bribery at common law are void, and cannot be enforced by action; nor can money paid under them be recovered; the maxim applying in all such cases—*In pari delicto, potior est conditio possidentis*.⁶ Its civil consequences in courts of law.

By the common law, bribery may be visited by the House with the same penalties as are inflicted by the Courts of Justice. Thus, in the earliest recorded case of the kind (A.D. 1571), "one Thomas Longe," says Blackstone, "being a simple man and of small capacity to serve in Parliament, acknowledged that he had given the Returning Officer, and others, of the borough [Westbury] for which he was chosen, four pounds to be returned member, How punishable in Parliament:

¹ *R. v. Pitt*, 3 Bur. 1338.

² 4 Doug. 292; *R. v. Lopez*, Ann. Reg. for 1819, p. 210; *R. v. Pitt*, 3 Bur. 1335, 1359.

³ 2 Geo. II. c. 24.

⁴ 2 Doug. 400.

⁵ *Per Powis, J.*, *Ld. Raym.* 994.

⁶ Broom's Leg. Maxims, ed. 5, p. 719.

CHAP. VI. and was, for that premium, elected.”¹ Whereupon
By fine : the House ordered “that a fine of twenty pounds
be assessed upon the corporation for their said
lewd and slanderous attempt ;”² and, according to
Lord Coke, though this does not appear from the
Commons’ Journals, Longe was removed from his
seat.³

By impris- Again, some fifty years later, but more than
sonment : seventy years before the first statute on the subject,⁴
the fact having been ascertained that, at Bletching-
ley, “some money, though very little, had been given
on Mr. Lovell’s behalf, to gain him voices,” the
House resolved “that he had committed an offence
against the liberties and privileges of the Commons
in Parliament by corruption, and threatening, and
other cunning and indirect proceedings, to hinder
a due election, and to innovate a settled course of
elections within the said borough . . . and that he
should for such his offence be committed to the
Tower of London.”⁵

Its other The other consequences of common law bribery,
conse- which could formerly be enforced by the House of
quences Commons, are now exclusively within the juris-
in Parlia- diction of the Courts of Common Pleas at West-
ment. minster and Dublin, and of the Inner House of the
Court of Session in Scotland.⁶ But although the
House has relinquished its powers in this matter,
yet the old principles, practice, and rules which
were observed by Parliamentary Committees, con-

¹ 1 Bl. Com. 179.

² *Westbury*, 1 Com. J. 88, May, 1571. Lord Mansfield observed, with reference to the order in question, that there could be no fine set in the House of Commons, and that it must have been in the Star Chamber, *R. v. Pitt* (3 Bur. 1336). “But,” says Mr. Douglas, “it appears that the house, *de facto*, set a fine in this case, as they did in the case of Arthur Halle, which Lord Coke quotes in the same place.” (2 Doug. 403, n. B.)

³ 4 Inst. 23.

⁴ 7 Will. III. c. 4 (repealed).

⁵ *Bletchingley*, Glanv. 39 ; *Great Grimsby*, Cliff. 173 ; *Bramber*, *ib.* 174—176.

⁶ 31 & 32 Vict. c. 125, ss. 2, 5, 58.

tinue to be important, inasmuch as they are still, "so far as may be," to be observed, so far, that is to say, as the rules made by the judges, under the power given them by the Parliamentary Election Act, 1868, s. 25, do not extend.¹ Now, one consequence in Parliament of common law bribery, when committed by a duly qualified and successful candidate at an election, was to enable the House (and it exclusively)² to annul his return; and that though only a single bribe was proved. This was intended, not so much as a penalty,³ as to secure to constituents a free and incorrupt choice; seeing that a single purchased vote, brought home to the candidate, might well throw doubt on his whole majority. The importance of bearing in mind the purely civil character of the avoidance of an election on such grounds will be perceived when the statutory incidents of unauthorised bribing, through agents, come hereafter to be considered.

On the other hand, bribery, to which the candidate was not privy, did not, at common law, vitiate his return, except in two cases; viz.—first, where his majority disappeared after deducting the corrupt votes: in which case the seat might be claimed for, or by, the next candidate, who was thereby found to have a legal majority: secondly, where the bribery was general; in which case, the whole election was void.⁴

Another result was often supposed to follow, by the common law of Parliament, when a member was unseated for bribery to which he was privy. He was said to be, *ipso facto*, dis-

CHAP. VI.

Whether it disqualified the unseated person for the vacancy:

¹ 31 & 32 Vict. c. 125, s. 26.

² May's Parl. Pr. ed. 7, p. 56.

³ *Per* Willes, J., in *Lichfield case*, 1 O. & H. 26.

⁴ In the *Lichfield case*, 1 O. & H. 26, Willes, J., said: "If there were general bribery, no matter from what fund, or by what person, and although the sitting member and his agents had nothing to do with it, it would defeat an election on the ground that it was not a proceeding pure and free, as an election ought to be." See also *Bradford case*, 1 O. & H. 40; *Beverley case*, 1 O. & H. 147.

CHAP. VI. qualified from being re-elected on the vacancy so occasioned.¹ Sir John Simeon, on the other hand, lays it down, that "by the common law of Parliament," the unseated candidate "remains eligible, notwithstanding the bribery" (p. 173). And it is certainly remarkable, that, of all the cases which have been cited by the learned advocates¹ of the opposite doctrine, none should be anterior to the statute of 7 Will. III. c. 4. Seven years previously, it is true, the House resolved that Mr. Montague, who had been declared guilty of bribery, should "be disabled from being elected to serve *in this Parliament* for the borough of Stockbridge."² But this is a precedent which proves too much; nor, in fact, is it much relied on by the writers in question; who would scarcely avouch the legality of a decision according to which the common law effect of bribery is to disqualify for the whole remainder of the Parliament.³ It may, perhaps, be said, that the resolution of 1677, embodied in 7 Will. III. c. 4, had preceded this decision; but—not to dwell upon the point that neither the resolution, nor the statute, makes any mention of a disqualification to last *during the Parliament*—there is no maxim of the constitution more settled, than that the House is unable, by resolution, to add to, or diminish, the common law.⁴ Even supposing, however, that a disqualification for the particular vacancy attached, here, again, the non-penal character of the result should be noticed. The unseated person was only disqualified for the particular constituency which had been corrupted, and which might therefore be

¹ Whitelocke, 387; Shepherd, 54; Clerk, 195.

² *1st Stockbridge* (1689), 10 Com. J. 287; Cliff. 162.

³ As to such a consequence, even under 7 Will. III. c. 4 (repealed), see Clerk, 199; Warren El. Com. 509; and Mr. Shepherd's comments (p. 55), on the cases of *Thetford* (18 Com. J. 145), and *2nd Norwich* (2 Lud. 455).

⁴ In *Galway County*, 2 O. & H. 54, Keogh, J., said, "I utterly deny the proposition that any resolution of the House of Commons would make law."

suspected of remaining biassed in his favour. He was eligible at once for any other seat that might be vacant.

CHAP. VI.

Bribery at common law does not affect the civil status of the voter.

The common law of Parliament did not affect the civil status of a voter who had been declared by a Committee to have taken bribes; and, whatever doubt may rest on the question whether, apart from the statute-book, a member unseated for bribery may be chosen for the vacancy so caused, there is none as to the common law right of the electors who shared in the offence to vote at the election on the vacancy. Nor is an elector who has administered bribes disqualified at common law from voting afterwards at that, or any other, election.¹

Such are some main points in the common law of election bribery. And we have now to consider how this subject has been dealt with by statute. The two principal statutes relating to bribery at elections are "The Corrupt Practices Prevention Act, 1854," and "The Parliamentary Elections Act, 1868."²

Bribery by statute :

The former statute repeals the chief enactments on the subject previously in force, and classifies the persons who are to be deemed guilty of bribing under five heads.³ As the first two heads are identical in principle, and differ only in the species of premium which is held out to the voter, they may be taken together. It will be convenient also to consider them distributively, with reference to —(1.) the person bribing; (2.) the person bribed; (3.) the *premium* offered or given; (4.) the *consideration* for the premium.

And, first, as to the person bribing. He may be any one who does the prohibited acts "directly or indirectly;" that is, any one who either does

Who is a briber :

¹ *Youghal*, F. & F. 411; *Coventry*, 1 Peck. 97; *Bridge-water*, *ib.* 102. But see *Ipswich case*, K. & O. 387; *Seaford*, 3 Lud. 112; *New Windsor*, *ib.* 194; 2 Doug. 417.

² 17 & 18 Vict. c. 102; 31 & 32 Vict. c. 125.

³ 17 & 18 Vict. c. 102, s. 2, App. lii.

CHAP. VI.

No one
liable criminal-
ly for un-
authorised
bribery by
agents.

But liable
civilly, on
petition.

them himself, or authorises another to do them for him. But the next words, "by himself, or by any other person on his behalf," will carry two senses, according to the purpose for which they are construed. When sought to be enforced *penally*, they merely mean, "by some person whom he has authorised for that purpose;" for it is a general rule, that no man can be treated as a criminal, or mulcted in penal actions, for offences which he did not connive at; nor does the statute authorise any infraction of the rule.¹ But these words, when construed by an election judge, and for civil purposes, are far more comprehensive, and reach every one whose agents bribe in his behalf, either with, or without, his authority.² There are usually two questions for the election judge to decide, namely—(1.) as to whether any corrupt practices have been effected (and it is now enacted that any charge of "a corrupt practice" may be gone into before proof of agency, unless the judge otherwise directs³); and (2.) as to the relation existing between the person effecting it and the candidate; and if it appears that at the time when the corrupt practices were effected,⁴ they stood in the relation of agent and principal in other respects, the candidate will not escape the civil result of bribery—the loss of his seat, and the consequent disqualification—merely because he gave his agent no authority to *bribe*.

¹ *Per* Martin, B. in *Norwich case*, 1 O. & H. 10, also *per* Lord Barcable in *Greenock case*, 1 O. & H. 251.

² This was clearly laid down by Martin, B., in the *Norwich case*, 1 O. & H. 10, as the unanimous opinion of himself and Willes and Blackburn, JJ. and has been acted upon by all the judges who have since tried election petitions. See Lord Barcable's judgment in *Greenock case*, 1 O. & H. 251. See also index to 1 O. & H. tit. Agency, parliamentary election law as to, explained.

³ 31 & 32 Vict. c. 125, s. 17. See *dicta* of Bramwell, B., as to this enactment, *Bristol case*, 2 O. & H. 29.

⁴ "It is clear that a candidate is not liable for any corrupt practices committed by an agent at any time *before* the relation of principal and agent existed between them." *Malcolm v. Parry*, L. R. 10 C. P. 175, *per* Lord Coleridge.

This may appear, at first sight, unjust ; and a hardship, no doubt, it must be, when a seat is vacated for bribery, of which the candidate was wholly unconscious.¹ But the avoidance of an election under such circumstances is² a purely civil consequence, and is brought about solely for the purpose of securing an unbiassed election. It is not in order to punish³ the candidate, for he suffers no other penalty than the loss of his seat, and is eligible immediately for any place, other than that at which he has been unseated.⁴ To a certain extent, indeed, this rule may be regarded only as an extension of that old principle of *respondere superior*, which is exemplified every day in actions brought against Sheriffs for the unauthorised acts of their bailiffs,⁵ and against employers for the unauthorised acts of their servants :⁶ the difference being, that in those instances, a principal's liability is limited to injuries committed through *negligence*, and that he is not answerable for a wilful or spiteful act done by an agent for his own purpose, and not in the course of his employment.⁷

As, therefore, elections are clearly liable to be avoided, on petition, by the unauthorised bribes of agents, it is essential to ascertain who are to be regarded as agents.

This question was very elaborately discussed by the election judges who tried the first petitions under the Parliamentary Election Act, 1868.

Who are
agents for
the above
purposes.

Definition
of agency.

¹ *Per* Martin, B. in *Westminster case*, 1 O. & H. 95 ; *per* Blackburn, J. in *Taunton case*, 1 O. & H. 184 ; *per* Keating, J., *Norwich*, 2 O. & H. 41, and Mellor, J., *Barnstaple*, *ib.* 105.

² *Per* Martin, B., *Norwich*, 1 O. & H. 10.

³ *Per* Willes, J., *Lichfield*, 1 O. & H. 26.

⁴ 17 & 18 Vict. c. 107, s. 36, App. lvi.

⁵ *Per* Blackburn, J., in *Bewdley case*, 1 O. & H. 19.

⁶ *Per* Martin, B., in *Norwich case*, 1 O. & H. 11, and *Westminster case*, 1 O. & H. 95.

⁷ *Per* Willes, J., in *Westbury case*, 1 O. & H. 54, referring to *Limpus v. General Omnibus Co.*, 1 H. & C. 526.

CHAP. VI. They, however, found themselves unable to lay down any hard-and-fast rule on the subject, and held that each case must be considered upon the whole facts taken together.¹ Nevertheless, we may briefly review what fell from them on the subject, so as to see what general principles may be safely put forward. In the very first case² tried under the Act, Mr. Justice Willes said, "authority to canvass,—and I purposely use the word authority, and not employment, because I mean the observation to apply to persons authorised to canvass, whether paid or not for their services,—would in my opinion constitute an agent." This hard-and-fast definition of agency was, however, speedily qualified. In the first case³ tried by Mr. Justice Blackburn, he said, "no one can lay down a precise rule as to what would constitute evidence of being an agent. Every instance in which it is shown that either with the knowledge of the candidate, or to the knowledge of his agents, a person acts at all in furthering the election in trying to get votes for him, is evidence tending to show that the person so acting was authorised to act as agent. . . . I take it that the question comes ultimately to be whether, upon the aggregate of all things taken together, of which each in itself is little, but is certainly some evidence, the person is shown to have been employed to such an extent as to have made him an agent for whom the candidate is responsible." And in a subsequent case,⁴ upon it being proved that an act of bribery had been committed by two persons who were members of a committee not selected by the candi-

¹ *Per* Blackburn, J., *Staleybridge case*, 1 O. & H. 70; *per* Grove, J., *Taunton*, 2 O. & H. 73.

² *Windsor case*, 1 O. & H. 3, and *per* Martin, B., in *Norwich case*, 1 O. & H. 10, "any person authorised to canvass is an agent." See also *dicta* of Mellor, J., in the *Bolton case*, 2 O. & H. 141.

³ *Bewdley case*, 1 O. & H. 17.

⁴ *Staleybridge case*, 1 O. & H. 67.

date, but consisting of *bonâ fide* volunteers, the same learned judge said,¹ "Mr. Justice Willes, in the Windsor case, laid it down as a general proposition that a person authorised by a candidate to canvass and get a vote was an agent. As a general proposition that would go a great way towards saying who is an agent, but I don't think we can take it as an absolute hard-and-fast rule, that whenever a case of corruption has been brought home to a person who was within this limit the seat should be vacated. The effect of that would be to say that wherever there were volunteers who were acting at all, and whose voluntary acting was not repudiated² by the candidate or his agents, any corrupt or improper act done by that volunteer, although unconnected with the member, would render that election void. To lay down such hard-and-fast rules as that would at times work great injustice. At present I cannot go further than to say that each case must be considered upon the whole facts taken together."³ In the subsequent

CHAP. VI.

¹ 1 O. & H. 70.

² In the *Londonderry case*, 1 O. & H. 273, O'Brien, J., said : "I cannot concur in the opinion that any supporter of a candidate who chooses to ask others for their votes and to make speeches in his favour can force himself upon the candidate as an agent, or that a candidate should be held responsible for the acts of one from whom he actually endeavours to dissociate himself." See also remarks of Channell, B., in *Shrewsbury case*, 2 O. & H. 36, and of Mellor, J., in the *Bolton case*, *ib.* 141.

³ As an illustration of this see Davis's case in *Westminster case*, 1 O. & H. 91, and Kean's case, *Salford case*, 1 O. & H. 141. See also *per* Blackburn, J., in *Bridgewater case*, 1 O. & H. 115, where he said : "It has never yet been distinctly and precisely defined what degree of evidence is required to establish such a relation as should constitute agency. I do not pretend to be able to define it." Also in the *Taunton case*, 1 O. & H. 185, he said : "If in the ordinary course of things I had a jury to find the facts, I being a judge of the law, the direction I should give to the jury would be to say, 'All this is some evidence of agency. . . . In the present case the particular consideration would be whether or no the agent has been doing so much for the candidate, whether there was so much *commodum* done that it would be just to impose the *onus* upon

CHAP. VI.

What specific facts will establish agency.

cases in which this question came to be discussed,¹ these dicta of Mr. Justice Blackburn appear to have been accepted by the other judges as a correct and proper declaration of the law on this subject.

Having seen, therefore, how far it is possible to give a general definition of what constitutes agency, it remains to consider what specific acts have been held sufficient to establish it.² In the first place it is clear that in order to constitute a person as agent there is no necessity to pay him.³ Further, there is no necessity that he should have been appointed by the candidate himself, as it has been held, that a person who is an agent to a candidate to the fullest possible extent⁴ is not only himself an agent, but also makes those persons agents whom he employs.⁵ But a person merely employed as a messenger will not on that account alone be held to be an agent,⁶ neither is a candidate's land-agent necessarily his agent for election purposes.⁷ The question of whether a person who him. I think I could not define it better than to say to the jury, 'It is a question of more or less, it is the extent to which it goes.'

¹ See *per* Willes, J., in *Bodman case*, 1 O. & H. 120; *per* Hughes, B., in *Waterford case*, 2 O. & H. 2; *per* Grove, J., in *Taunton case*, 2 O. & H. 73; *Wakefield*, *ib.* 102.

² See what was held sufficient to prove agency in the *Durham case*, 2 O. & H. 136; and see *Bolton*, *ib.* 141; *Stroud*, 3 O. & H. 11; *Cornwall case* (Canada), 10 Canada Law Journ. 314.

³ *Per* Willes, J., *Windsor case*, 1 O. & H. 3, and *Westbury case*, 1 O. & H. 55; *per* Blackburn, J., *Bewdley case*, 1 O. & H. 17.

⁴ In the *Hereford case*, 1 O. & H. 195, Blackburn J., said: "There is always a great difference, in my view, in the degrees of agency. As you go lower down you require more distinctly to show that the act was done by a person whom the candidate would be responsible for. As you come higher up it is more as if the candidate had done it himself."

⁵ *Per* Blackburn, J., *Bewdley case*, 1 O. & H. 19, and *Staleybridge case*, 1 O. & H. 69; *Cashel case*, 1 O. & H. 288; *Barnstaple*, 2 O. & H. 105; *Niagara* (Canada), 10 Canada Law Journ. 319. But see *Westminster case*, 1 O. & H. 96, as to agency of agent's son.

⁶ *Per* Willes, J., *Windsor case*, 1 O. & H. 3; and *Bodmin case*, 1 O. & H. 120.

⁷ *Per* Willes, J., *Tamworth case*, 1 O. & H. 82. It was held

is a member of a candidate's committee is to be held as his agent has been discussed in several cases. If the committee are *bonâ fide* volunteers, and not selected by the candidate, they are not to be considered as his agents;¹ but if they are the persons who are entrusted by the candidate with the work of carrying out his election they will be so considered.² Again, if a political association is formed for the purpose of furthering the election of a candidate of certain politics, and it appears that the candidate derived a certain degree of benefit from the efforts of the association, and did not hold them off or repudiate them, the candidate will be held responsible for any malpractices they may commit.³ On similar grounds, if the clergy of a particular religious denomination espouse the cause of a candidate, and that candidate acquiesces in their endeavours, he is liable to be held responsible for the acts of every clergyman of that denomination.⁴ If candidates coalesce, they make each an agent for the other, consequently if after the coalition has taken place⁵ any corrupt act is done by the agent of one candidate it will affect both the candidates, and they will both be unable to hold their seats.⁶

CHAP. VI.

by an election committee that acting as the candidate's solicitor was sufficient to establish agency (*Horsham*, 1 P. R. & D. 253), but this does not necessarily extend to a partner of a solicitor (*Norwich*, P. & K. 565)

¹ *Per* Willes, J., *Staleybridge case*, 1 O. & H. 67; *per* Martin, B., *Westminster case*, 1 O. & H. 92; *per* Bramwell, B., *Windsor*, 2 O. & H. 89.

² *Per* Martin, B., *Westminster case*, 1 O. & H. 92; *Blackburn case*, 1 O. & H. 200; *Dublin case*, *ib.* 272.

³ *Taunton case*, 1 O. & H. 183; *Blackburn case*, 1 O. & H. 200; *Newry*, P. & K. 151; *Bristol*, P. & K. 574; *Galway county*, 2 O. & H. 53; *Wakefield*, 2 O. & H. 102. But see *Wigan case*, 1 O. & H. 189.

⁴ *Limerick case*, 1 O. & H. 262; *Galway county*, 2 O. & H. 53.

⁵ *Malcolm v. Parry*, L. R. 10 C. P. 168.

⁶ *North Norfolk*, 1 O. & H. 240. See also *Bridgewater*, 1 O. & H. 113; *Ipswich*, K. & O. 371; *Norwich case*, 2 O. & H. 39; *Boston*, *ib.* 166.

CHAP. VI.
 When
 agency com-
 mences.

It may sometimes happen to be a matter of great importance to fix the exact time when the relation of principal and agent first commenced. For if a person with strong political feelings chooses long before an election to bribe so extensively as to make the election safe, and then, when the election is imminent, is appointed agent by a candidate in perfect innocence, and if during the course of the election his conduct is perfectly pure, so that in fact when he was bribing he was not agent, and when he was agent he was not bribing, it is clear that the candidate would not be responsible for the bribery which his agent committed.¹ The relation of a person as agent to a candidate as to any particular election *may* commence long before the time arrives for the election to be held. Thus if a person is a candidate at several successive elections, there will be a strong inference that a man who has acted as agent to the candidate at any one election continues to be his agent at the next election. Such an inference is, of course, capable of being rebutted ; but nevertheless it has been held that if at a previous election systematic bribery has been carried on by a person who is admitted to be an agent of a candidate at the election, that candidate will, at a subsequent election, undoubtedly be held liable for the acts of the person if at the subsequent election he again commits bribery.² It has also been held³ that a person may be a candidate⁴ within the meaning of the Corrupt

¹ *Per* Lord Coleridge in *Malcolm v. Parry*, L. R. 10 C. P. 175.

² *Waterford*, 2 O. & H. 2.

³ *Youghal*, 1 O. & H. 292, and Irish Rep. 3 Com. Law, 530.

⁴ The word "candidate" is defined in 21 & 22 Vict. c. 87, s. 3, App. lviii. and in the Parl. El. Act, 1868, s. 3. In *Edwards v. Whitehurst*, 5 H. & N. 131, it was held that a person who was proposed and seconded with his consent, but did not go to the poll, was a candidate within the meaning of the word as interpreted in 21 & 22 Vict. c. 87, s. 3. In *Morris v. Burdett*, 2 M. & S. 217, Lord Ellenborough, C. J., said that

Practices Prevention Act, 1854, long before the dissolution or vacancy occurs which necessitates the election, and that consequently that person may be responsible for a corrupt act committed by an agent long before the election actually takes place.

CHAP. VI.

Although as a general rule agency has been held to cease with the close of the poll, so that a candidate will not be liable for an unauthorised act of corruption committed by his agent after the election¹ (unless there is something to show a continuing authority²), still it was held in one case that the connection between the candidate and his agent at a previous election had been of so close a nature, that it must be taken that even at a subsequent election that relationship continued to exist.³ Agency will also be determined by the treachery of an agent, so that if an agent treacherously or traitorously agrees with the other side to do some corrupt act it will not vacate the seat unless it is proved that the corrupt act was done at the special request of the candidate himself.⁴

When
agency
ceases.

If agency is not established, the return is not affected by the unauthorised bribes of third parties, though given in a candidate's interest, unless the majority depends on votes so obtained,⁵ or unless such bribes occasion general corruption.

Bribery by
stranger
does not
necessarily
affect candi-
date :

2. Having thus considered who may be deemed to be a briber under this section, the next question is—

The person
bribed :

the word candidates in its ordinary sense meant "persons offering themselves to the suffrages of the electors." See also *Muntz v. Sturge*, 8 M. & W. 310.

¹ *Salford case*, 1 O. & H. 136; *Lynn case*, 1 O. & H. 208. See also *Lord Huntingtower v. Gardiner*, 1 B. & C. 297.

² *Norfolk case*, 1 O. & H. 243.

³ *Waterford case*, 2 O. & H. 2.

⁴ *Stafford case*, 1 O. & H. 231.

⁵ By rule 41 of the Ballot Act, App. cx., it is provided that after a person's vote has been declared invalid (as it would be if it was proved that the person had received a bribe, no matter from whom), the ballot paper may be inspected in order that his vote may be struck off.

CHAP. VI.

Who may be the person bribed, so as to bring the briber within the statute? This may be very shortly answered. The bribe, in the words of the Act, may be given "to, or for, any voter, or to, or for, any person, on behalf of any voter, or to, or for, *any other person*." That is to say, the person bribed may be anybody, be he an elector or not.

The premium or bribe :

3. We have now to consider what *premium* may be held out in bribery, or, in other words, what a bribe may consist of. Now the Act says, that the corrupting inducement may be any gift, or loan,¹ of money, or of any valuable consideration. And by valuable consideration is meant anything—and probably any act or service—capable of being estimated in money. "I entertain this opinion also," Alderson, B., is reported to have said, after delivering judgment in *Cooper v. Slade*, "whether the rest of the court agree in it or not, that the words 'money or other valuable consideration' ought to be expounded 'money or other valuable consideration *estimable*.'"² Thus, in one case,³ the payment of money, in order to take a voter out of the sheriff's custody, was held to be bribery; and, in another case,⁴ the promise of refreshments *in futuro*, and in another,⁵ granting permission to voters to shoot rabbits, was held to be a valuable consideration; in another,⁶ the gift of coal tickets at Christmas time. Again, the premium may be "any agreement to make such a gift or loan—any offer, or promise to procure, or endeavour to procure, any money, or valuable consideration"—no matter whether the offer be accepted or declined:—the giving, or procuring, of any "office, place, or employment;"⁷ and

A promise to procure, or endeavour to procure ditto :

¹ *Lyme Regis*, B. & Aust. 512.

² *Cooper v. Slade*, 27 Law Times, 139.

³ *Londonderry*, 1 O. & H. 275.

⁴ *Bodmin*, 1 O. & H. 124.

⁵ *Launceston*, 2 O. & H. 133.

⁶ *Boston*, 2 O. & H. 161.

⁷ Thus the offer to procure a seat in the Town Council for a

whether it is in the gift of the corrupter, or is to be obtained through his means.¹ CHAP. VI.

4. Fourthly, we have to consider what may be the consideration for the premium, or bribe given. The words of the statute vary in their description of the consideration when the bribe is given before a vote, and after it. Before a vote, bribery is committed when any premium, capable of being classed among those which have been described, is held out "in order to induce any voter to vote, or refrain from voting." After a vote, the offence is committed when, and only when, such a premium is held out "corruptly, on account of any voter having voted, or refrained from voting." It is, however, provided, as to the second section of the Act generally, that it is not to extend to any money paid, or agreed to be paid, "on account of any legal expenses *bonâ fide* incurred at, or concerning, any election."² Several questions have been raised as to the meaning of the phrases just quoted. And, first, as to bribery *before* the vote. Must the briber intend to violate the law; or will the offence be complete if he intends "to induce &c.," though ignorant that he is thereby violating the law? Secondly, must he intend "to induce &c." or will the offence be complete if he intends to make a gift, or do an act, which *in fact* tends to "induce &c.," though he does not contemplate such a tendency? Thirdly, does the phrase "induce a voter to vote," include every inducement to vote *at all*, without reference to the side on which the vote is to be given; or must the inducement be of a partisan character? Fourthly—as regards bribery *after* the vote—is the word "corruptly" to be taken as part of the definition, and requiring therefore distinct proof: or is it only meant to stigmatise every gift on account of a previous vote as a corrupt

Consideration for bribe;

Questions arising as to definition of bribery.

voter was held to be within s. 2 (2) of the Act, *per* Hughes, B., *Waterford case*, 2 O. & H. 25.

¹ *Nottingham*, B. & Arn. 165; *Derby*, 2 P. R. & D. 106.

² 17 & 18 Vict. c. 102, s. 2; App. lii.

CHAP. VI.

bribe? If part of the definition, what additional proof is needed to make a gift to a voter, on account of a previous vote, corrupt? Does the statute mean, by this word, to require a stronger amount of proof than in bribery before a vote :—for instance, must an understanding previous to the vote be proved, in the case of bribery “on account of a voter having voted,” though this is not necessary to complete the offence where a gift is “made to induce a voter to vote?”¹ Fifthly, what is the effect of the proviso ; and does it mean that a candidate might lawfully agree for the necessary and usual expenses of an election, even though he were to couple such agreement with conditions as to voting?

Points decided in
Cooper v. Slade.

Several of these questions have had light thrown on them by the dicta of the Judges in the case of *Cooper v. Slade*,² decided in the House of Lords in 1858. The main point in issue in that case was whether a circular in the following form was any evidence to go to the jury of an offence within the penal clauses of the Corrupt Practices Act :—

Cambridge Borough Election Committee Room,
Lion Hotel, Aug. 12, 1854.

Mr. R. Carter,

Sir,—The Mayor having appointed Wednesday next for the nomination, and Thursday for the polling, you are earnestly requested to return to Cambridge and record your vote in favour of Lord Maidstone, and F. W. Slade, Esq., Q.C.

Yours truly,

CHARLES BALL, Chairman.

Your railway expenses will be paid.

The postscript as to the railway expenses was in writing. After the vote had been given, Carter's reasonable travelling expenses were paid, from Huntingdon to Cambridge and back ; but nothing more was given. The House of Lords held, affirm-

¹ The question of corrupt *treating* after an election was raised in *Brecon case*, 2 O. & H. 44. See dicta of Lush, J., which would be in the main applicable to bribery after an election.

² *Cooper v. Slade*, 27 Law J. Q. B. 449 ; S. C. 6 H. L. Cases, 746.

ing the verdict, that the defendant had authorised this circular and the subsequent payments: that the circular was in effect a promise to pay the voter's travelling expenses on the condition of his voting for the promisers; that it was not within the proviso at the end of the second section; and that there was therefore evidence to go to the jury of bribery both before and after the vote; but that only one penalty should be awarded. It is evident that this decision leaves open the question whether a promise *not* so conditioned would have been within the Act; but incidentally the learned Judges who acted as assessors on the occasion, touched on this point,¹ as well as on many others of those already adverted to, as being involved in the interpretation of the second section.

Now, taking the questions above stated² in their order, we find from the case of *Cooper v. Slade* that (1) the question whether the offence of bribery may be complete without any intention of violating the law was clearly affirmed. On this subject Mr. Baron Channell said:—"The defendant acted, I have no doubt, in the honest belief that the payment of mere travelling expenses was legal; but the question is—*not what the defendant may have thought to be legal*, but what he did; and whether what he did was an offence against the statute."³ So, too, Lord Wensleydale said:⁴ "It mattered not for this purpose, whether the defendant *believed he was acting rightly or not*. I suppose that he did so believe, relying entirely on Tindal, C. J.'s opinion. . . . I have no doubt that he was perfectly innocent of any intention to violate the law; still, if he did authorise that memorandum to be added to the note, and that note was sent to the voter by his authority, he was acting in violation of the statute."

Intention of
violating
law immu-
terial:

¹ See *Horsham case*, 3 O. & H. in which the election was avoided on this very ground.

² *Ante*, p. 145.

³ *Cooper v. Slade*, 27 L. J. Q. B. 451; 6 H. L. C. p. 760.

⁴ 27 L. J. Q. B. 464; 6 H. L. C. 797.

CHAP. VI.

Intention to
do the act
without re-
garding its
tendency :

Secondly, the question whether, to complete the offence, an intention *to do the act which tends* "to induce, &c.," will suffice, without any such tendency having itself been contemplated, seems neither to have been affirmed nor negatived in *Cooper v. Slade*, their lordships being apparently agreed that the defendant contemplated the natural consequences of his act,—a presumption which would always arise in the absence of evidence to the contrary.¹ But from the *Launceston case*² it appears that it is necessary to prove the existence of an actual intention to induce, &c., and that it is not sufficient merely to prove that an act has been done which might induce, &c. In that case it was proved that the day before the election the respondent himself (in consequence of some bad feeling which had arisen as to preserving rabbits on his estate) gave permission at a public meeting to all his tenants (most of whom were voters) to kill the rabbits when and how they pleased. Mellor J., in declaring the election void, said : "The whole validity of the election turns upon the question whether the concession or declaration made by the respondent at the meeting just before the poll did or did not amount to a corrupt practice within the meaning of the Act. . . . I am satisfied that what passed at that meeting was done *for the purpose of influencing* in some way the *election* then about to take place." And in the *Windsor case*,³ Bramwell, B., said as follows with regard to the intention with which a person acts : "There is no harm if a man has a legitimate motive for doing a thing, although in addition to that he has a motive, which, if it stood alone, would be an illegitimate one, and he need not refrain from doing that which he might legiti-

¹ In the *Cashel case*, 1 O. & H. 289, it was held that to offer a voter a retainer to act as agent in order to incapacitate him from voting was not bribery.

² 2 O. & H. 129.

³ 2 O. & H. 90. See also *Kingston case* (Canada), 11 Canada Law Journ. 24.

mately have done on account of the existence of the motive which by itself would have been illegitimate." CHAP. VI.

Thirdly, the question whether the phrase "to induce a voter to vote," &c., necessarily means to induce him to vote *on a particular side*, was answered in the affirmative in *Cooper v. Slade*, although it was unnecessary to decide the point, as their lordships were agreed that the promise in dispute was made on condition of the vote being given for the defendant. As to this, Baron Channell said :¹— "Assume that a promise to pay a voter his travelling expenses was legal ; assume a promise such as that stated in this letter ; I inquire, could an action have been maintained on the promise by the promisee if he had not voted at all, or had voted against the defendant. It is, to my mind, impossible to come to such a conclusion ; but such is, I think, the necessary conclusion, if, there being some promise to pay, that promise is to be considered an absolute and unconditional promise, regardless of the question whether or how the elector voted." And Mr. Justice Wightman² added : "Giving a reasonable construction to the Act, it must, I apprehend, be understood to mean, that to constitute the offence of bribery, the promise must be to induce the person to whom the promise is made to *vote for a particular candidate*."

Fourthly, the effect of introducing the word "Corruptly." into the description of bribery *after* the vote has been given was thus described in *Cooper v. Slade*. Mr. Justice Coleridge said :³ "To bring an act within this part of the section it must have been done corruptly, and the mere doing it because the vote had been given or withheld is not enough." And Lord Cranworth said :⁴ "I cannot give the word 'corruptly,' as there used, referring to a payment after voting, any other meaning than

¹ 6 H. L. C. 759.

² 6 H. L. C. 780.

³ *Id.* p. 785.

⁴ *Id.* p. 788.

CHAP. VI.

a payment in violation of that which the statute was passed to prohibit." In the Bradford case¹ Baron Martin said, as to the effect of this word, as follows : " The section draws a distinction between a payment before and a payment after the vote has been given : it says that if you give money to a man to vote before an election, that is *ipso facto* bribing ; but if the money is given after a man has voted, you must show that it was done corruptly. What is the exact meaning of the word 'corruptly ?' " It means a thing done with an evil mind and intention ; and unless there be an evil mind or an evil intention accompanying the act it is not corruptly done. 'Corruptly' means an act done by a man knowing that he is doing what is wrong, and doing it with an evil object."

Meaning of
the proviso
to s. 2.

Fifthly, as to the meaning of the proviso at the end of section 2, it was distinctly stated by Willes, J., in his judgment in the *Coventry case*,³ that " it relates merely to the expenses of the candidate, and not to the expenses of any other persons. It does not relate to the expenses of voters. To pay the expenses of voters on condition of their voting or abstaining from voting is unquestionably bribery." ² But in *Cooper v. Slade*, Watson⁴ and Bramwell,⁵ BB., stated that, in their opinion, this proviso was

¹ 1 O. & H. 37. See also observations of O'Brien, J., in the *Carrickfergus case*, 1 O. & H. 267.

² In the *Bewdley case*, 1 O. & H. 19, speaking of the word "corruptly" as used in s. 4, Blackburn, J., quoting the judgment of Willes, J., in *Cooper v. Slade*, 6 H. L. C. 773, said : "Corruptly there does not mean wickedly or immorally, or dishonestly, or anything of that sort, but with the object and intention of doing that which the legislature plainly means to forbid." In the *Stroud case*, 2 O. & H. 185, Bramwell, B., said : "I rather think that word 'corruptly' would not apply to any case where the payment was merely on account of the voting, unless there was some other reason for giving the money." See further as to this word as used in s. 4, *post*, p. 168 ; see also *Brecon case*, 2 O. & H. 44, and *Kidderminster*, *ib.* 177.

³ *Coventry case*, 1 O. & H. 101 ; *Horsham case*, 3 O. & H. at p.

⁴ *Cooper v. Slade*, 6 H. L. C. 764.

⁵ *Ib.* p. 766.

intended to exempt cases where a candidate had paid, or had agreed to pay, the various legal expenses incurred at elections, such as printing, messengers, &c., before the election, to keep the voter in good-humour, or, in other words, to induce him to vote. So the whole proviso may well read thus: "Every person who shall promise, &c., money, &c., in order to induce any voter to vote shall be guilty of bribery, provided that this enactment shall not extend to any money paid, or agreed to be paid, for, or on account of any expenses *bonâ fide* incurred at, or concerning, any election, and provided such expenses are not illegal, on some other ground than this prohibition."¹

We may here observe that the question of the legality of paying for conveyances for voters in county elections and elections for the Universities, East Retford, Shoreham, Cricklade, Much Wenlock, Aylesbury, and Galway, is set at rest by the enactment of 21 & 22 Vict. c. 87, s. 1,² which enables any candidate, or his agent duly appointed in writing, to provide conveyance for any voter for the purpose of polling at an election; but no money, or valuable consideration,³ may pass to the voter. But in all boroughs in Scotland and Ireland,⁴ payments of travelling expenses, either to the voter

Payment of travelling expenses, how far legal.

In borough elections.

¹ In their judgment in the Court below, the judges, of whom Bramwell, B., was one, had treated this proviso as of no weight, and merely as a superfluous provision *ex majori cautela*, 6 B. & B. 458. But in his judgment in the House of Lords, Bramwell, B., said with regard to this part of his former judgment: "I incline to think that is wrong. . . . It is not right to hold any part of an enactment nugatory or needless if a meaning or purpose can be given to it." 6 H. L. Cases, p. 765.

² App. lvii.

³ In the *Bolton case*, 2 O. & H. 145, it was argued that the payment of the travelling expenses of voters to whom a certain letter (therein set out) had been sent, was a valuable consideration within the meaning of the Corrupt Practices Act, s. 2, but Mellor, J., held that it was not. See also *Horsham case*, 3 O. & H.

⁴ By the Parl. El. and Corrupt Practices Act, 1880, s. 36 of 30 & 31 Vict. c. 102, is repealed, so that such payments are no longer illegal in English boroughs.

CHAP. VI.

himself, or to any other person, are now illegal payments within the meaning of the Corrupt Practices Act of 1854.¹

Other payments made illegal by statute.

There is also another class of payments which are made illegal² by statute, namely, payments on account of chairing, cockades, ribbons, or marks of distinction, or on account of any bands of music, or flags, or banners, and any person providing cockades, ribbons, or marks of distinction is liable to forfeit the penal sum of two pounds for every such offence.³

Unconditional payments made when not bribery.

The case of *Cooper v. Slade* cannot be said to have brought within the statute all unconditional payments unless they tend of themselves to create such a bias as to affect the character of a vote. Thus, merely subscribing to institutions, whether political⁴ or religious⁵ or to a fund formed for defraying the expenses of a particular candidate,⁶ or profuse hospitality,⁷ or giving money out of mere charity, although it be to a voter,⁸ or paying for the admission of freemen,⁹ or lavishly expending money in a town with a view of gaining influence and influencing an election,¹⁰ or over-paying an

¹ (Scotland) 31 & 32 Vict. c. 48, s. 25; App. lxxiii. (Ireland) 31 & 32 Vict. c. 49, s. 12; App. lxxix.

² Consequently no creditor could recover for cockades, &c., in an action, if he knew to what purpose they were to be applied; *Richardson v. Webster*, 3 C. & P. 128; *Ribbans v. Crickett*, 1 B. & P. 264.

³ 17 & 18 Vict. c. 107, s. 7, App. liv. The Irish Act as to cockades, viz., 35 Geo. III. c. 29, s. 19, is not expressly repealed by 17 & 18 Vict. c. 102, but it was held by O'Brien, J., in *Youghal case*, 1 O. & H. 297, that this section is repealed by implication, and it may be remarked that it is not repealed by the repealing schedule of the Ballot Act, App. cxxxiii.

⁴ *Belfast*, 1 O. & H. 282.

⁵ *Westbury*, *ib.* 49, and see *South Huron case*, 4 Canada Com. Law Rep. 488.

⁶ *Coventry*, *ib.* 104; *Belfast*, *ib.* 285.

⁷ *Windsor*, *ib.* 3; *Brecon*, 2 O. & H. 43.

⁸ *Windsor*, 1 O. & H. 2; *Youghal*, *ib.* 294; *Boston*, 2 O. & H. 161.

⁹ *Beverley*, *ib.* 145.

¹⁰ *Hastings*, *ib.* 218. In the *Stroud case*, 2 O. & H. 182,

agent,¹ have not been held to be bribery within the meaning of the 2nd section of the Corrupt Practices Act. Neither was it the intention of the Legislature to prevent actions, which are good and kind in themselves, being done to persons merely because they have a tendency to make those persons favourable to the persons doing them. For instance, the Legislature does not intend to prevent liberal conduct on the part of an employer towards his workmen. If a master were to say to his men, "If you choose to make a holiday on the following day you shall not lose money by it whatever your colour is," that would not be bribery.² But what the Legislature intended to prohibit was "acts done with the specific object of influencing the mind of the individual voter to whom they had relation by the particular temptation held out to him," therefore "a promise or offer to cause a workman to be no loser by his coming to vote (for instance, that if he will come and vote for a particular person, he shall not lose his day's work) comes within the meaning of the Corrupt Practices Act, and is an act of bribery and corruption."³ *Bona fide* and unconditional refreshments supplied to committeemen and others who are engaged in carrying on the work of the election⁴ have also been held lawful, upon the above principles; but, though not invalidating the election, they are illegal if supplied on the day of nomination,

Refreshments.

Bramwell, B., said, "The Act does not say that liberal conduct towards your men, or such a thing as putting up a drinking fountain or what not, although it be done very much to influence voters, is bribery."

¹ *Youghal*, *ib.* 296.

² Per Bramwell, B., *Stroud*, 2 O. & H. 184.

³ *Staleybridge case*, 1 O. & H. 67.

⁴ *Bradford case*, 1 O. & H. 36; *Tamworth case*, 1 O. & H. 83; *Westminster case*, 1 O. & H. 91; *Norfolk case*, 1 O. & H. 243. It is clear that to supply refreshments, or to promise refreshments *in futuro* on condition that a voter votes in a particular way, may be bribery within the 2nd section of Corrupt Practices Act, as well as corrupt treating within s. 4; *Bodmin*, 1 O. & H. 124.

CHAP. VI.

Payment of
rates.

or of polling. This is under the 23rd section, which prohibits the giving, or causing to be given, refreshments or money, or tickets of refreshment, to any voter *on the day of nomination, or of polling*, on account of such voter having polled, or being about to poll, under a penalty of forty shillings for each offence.¹ Again the payment of rates, if unconditional, is not within the statute. It has been decided that the payment of rates by third parties, without the knowledge of the persons from whom such rates were due, is not such a payment by the latter as to entitle them to be put on the burgess list; and Lord Denman, in deciding the point, took occasion to suggest that such payments might be made the means of "enormous bribery."² In Great Britain no person can now be registered as a voter whose rates are in arrear;³ and it is enacted, as to Great Britain, that any person, either directly or indirectly, *corruptly* paying any rate on behalf of any ratepayer, for the purpose of enabling him to be registered as a voter, thereby to influence his vote at any election—and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of *inducing* him to vote, or refrain from voting—shall be guilty of bribery, and punishable accordingly; and any person on whose behalf, and with whose privacy, any such payment is made, shall also be guilty of bribery, and punishable accordingly.⁴ In order, therefore, to bring a person paying the rates of another within the penalties of this enactment it must be distinctly proved that the payment was corruptly made,⁵ and in order to make a candidate liable for the consequences of the

¹ 17 & 18 Vict. c. 102, s. 23; App. lv.

² *R. v. Bridgenorth*, 10 A. & E. 66. But see *Worcester*, C. & D. 173; and *Cook v. Lockett*, 2 C. B. 648.

³ 30 & 31 Vict. c. 102, ss. 3, 6; 31 & 32 Vict. c. 48, ss. 3, 6.

⁴ (England and Wales) 30 & 31 Vict. c. 102, s. 49; App. lxxi. (Scotland) 31 & 32 Vict. c. 48, s. 49; App. lxxvii.

⁵ *Oldham case*, 1 O. & H. 164.

corrupt payment of any person's rates by any agent of his, it seems that it must be proved that the candidate authorised such corrupt payment.¹ But the payment of money to or for a voter, if colourable, is clearly bribery. Thus it has been held to be bribery to pay to a Sheriff a debt due from a voter, in order to enable that voter to be discharged from custody, and to go and vote.² Similarly, the mere fact of employing and paying wages to a voter is not bribery, although it incapacitates a voter from voting,³ but it is clearly bribery if the employment is colourable or a condition is made.⁴ On this ground, also, the legality of payments for the admission of freemen has often been questioned,⁵ though it may be doubted whether such a transaction can be said to be effected "in order to induce a voter" to vote or refrain from voting, inasmuch as, at the time of the payment, the freeman is not a voter,⁶ nor does he become so until the admission is perfected. In every case of this kind, however, caution should be used in abstaining from requiring any pledge from the person admitted, in respect to the exercise of the franchise so secured to him.

CHAP. VI.

Colourable payments.

Admissions of freemen.

We have now discussed the subject of bribery as it is dealt with in the first two subsections of s. 2 of the Corrupt Practices Act, 1854, and we have now to consider the three remaining subsections.

Purchase of influence.

The third subsection makes it bribery for any person by the gift of any premium to induce any person to procure the return of a candidate or the

¹ *Wigan case*, 1 O. & H. 190.

² *Londonderry*, 1 O. & H. 275. But see *Ashburton*, 1 W. & B. 1.

³ 30 & 31 Vict. c. 102, s. 11, as to England; 31 & 32 Vict. c. 48, s. 8, as to Scotland; 31 & 32 Vict. c. 49, s. 8, as to Ireland.

⁴ *Tamworth case*, 1 O. & H. 78; *Penrhyn case*, *ib.* 129; *Gloucester*, 2 O. & H. 62; *Durham*, *ib.* 135, 137.

⁵ *Beverley case*, 1 O. & H. 145.

⁶ See interpretation clause 17 & 18 Vict. c. 102, s. 38, App. lvii.

CHAP. VI. vote of a voter. This subsection was the subject of a very elaborate argument and judgment in a recent election case.¹ The facts and the argument founded upon them are fully set out in the report of the case, and need not be here inserted at length. Suffice it to say that the principal point decided in that case was, that, in order to bring a payment within this subsection, the payment must be shown to have been made for the purchase of influence, made, that is to say, to some person in consideration of his lending his influence or his countenance in the election. "It is not an offence," said the learned judge, "within this subsection for a candidate to bring forward another person to stand as his colleague, he himself being a monied man and a party man, who desires to have some person to stand with him, in order to advance the interests of his party, and who is satisfied to pay the legitimate expenses of the election of himself and the other candidate whom he desires to bring forward with such a view. . . . To bring forward another candidate without a view to purchase his influence, with the intention of serving his party, and because he does not mind spending his money upon the legitimate expenses of the election of himself and of the other candidate, with a view only to serve his party, and not with a view to purchase influence for himself, does not fall within the third clause of 17 & 18 Vict. c. 102, s. 2."²

Consenting
to procure a
return :

The fourth subsection of the second section of the Corrupt Practices Act makes any person guilty of bribery who, *upon or in consequence of* any such rewards or inducements—*i. e.*, held out by an offender of the third class—shall procure, or engage, promise, or endeavour to procure, a return, or a vote. The difference to be observed in this

¹ *Coventry case*, 1 O. & H. 97. See also *Youghal case*, 1 O. & H. 294.

² It may be observed that by 7 & 8 Will. III. c. 7, s. 4, App. ii., a person is liable to a penal action who contracts to procure any return of any member.

case is that whereas, under the previous heads, the offence may be confined to one person, here there must be a corrupter, in order to make the person procuring, &c., liable.

CHAP. VI.

The species of bribery which is dealt with in the fifth subsection of the second section of the Corrupt Practices Act is committed—first, by one who advances or pays, or causes to be paid, any money to, or for the use of, any other person; “with the intent” that the money is to be spent in “bribery at an election;”—or, secondly, by one who knowingly pays, or causes to be paid, any money to any person in discharge, or repayment, of money spent wholly, or in part, in “bribery at an election.” Both these offences, it will be observed, are confined to bribery *at an election*; both relate to bribery in the gross without reference to particular voters; and in both the corrupt *intention* must be shown. No person, therefore, who lodges money for the expenses of an approaching election, within the amount which may legitimately be anticipated in the particular case, will be affected by this section; unless independent evidence be adduced of his intention to contribute towards bribery at such election.¹

Supplying money for past or future bribery at an election.

We have now discussed all the various ways in which this second section of the Corrupt Practices Act may be contravened, and it only remains to consider what penalties are incurred by persons guilty of bribery within the meaning of the section.

The penalties incurred by any person who is guilty of bribery within the meaning of the second section of the Corrupt Practices Act are as follows. Bribery, as defined by that section, is declared to be a misdemeanour (in Scotland, an offence punishable by fine and imprisonment), entailing a penalty

Penalties on briber.

¹ See *Belfast case*, 1 O. & H. 283, where it was unsuccessfully attempted to bring a payment made under certain circumstances therein set forth within the operation of this 5th clause.

CHAP. VI. of a hundred pounds with full costs of suit, for each separate offence ;¹ therefore if a person bribes more than one voter at an election, he will be liable to be sued for a separate penalty on account of each act of bribery.² But where the payment of a bribe after a vote is in pursuance of a promise before the vote, though two offences are committed, only one penalty will be exacted.³ After a conviction of any person, if a voter, in a Court of Law, for bribery, or undue influence—or after judgment in a penal action for bribery, treating, or undue influence—the Revising Barrister is to expunge the offender's name from the list of voters, to disallow it when sought to be inserted there, and (in either of the last two events) to place it in a list to be entitled "The List of Persons Disqualified for Bribery, Treating, or Undue Influence."⁴ Moreover, by the Parliamentary Elections Act, 1868, any person other than a candidate—meaning by "candidate" any person elected, or who has been nominated as, or declared himself, a candidate⁵—found guilty of bribery in any proceeding in which, after notice of the charge, he has had an opportunity of being heard,⁶ becomes ineligible for, and

¹ See the rules as to prosecutions and penal actions, 17 & 18 Vict. c. 102, ss. 9, 10, 12, 13, 14.

² *Milnes v. Bale*, L. R. 10 C. P. 591.

³ *Cooper v. Slade*, 27 L. J. Q. B. 451.

⁴ 17 & 18 Vict. c. 102, s. 6 ; App. liv.

⁵ 31 & 32 Vict. c. 125, s. 3.

⁶ In the *Bewdley case*, 1 O. & H. 176, Blackburn, J., declined to strike off the vote of an elector who had been reported by the judge (under Parl. El. Act, 1868, s. 11 (14b)) as having been bribed at the previous election, on the ground that the mere report of a judge did not disqualify the elector under s. 45 of the Parl. El. Act, 1868. He said as follows : "The report of a judge is not a determination of the case, except incidentally. He has only to make a report, and it can hardly be said that that is the same as finding a man guilty. Besides, the Act speaks of 'an opportunity of being heard,' and I think that does not mean the kind of opportunity which a witness has who is called up on the spur of the moment, and who is subject to cross-examination ; but it means an opportunity of being heard when

incapable of sitting in, Parliament, during the next seven years. He also becomes incapable (1) of being registered as a voter and voting; (2) of holding any office under 5 & 6 Will. IV. c. 76 (Municipal Corporation Act), or under 3 & 4 Vict. c. 108 (Irish Municipal Act), or any municipal office; (3) of holding any judicial office, and of being appointed, and of acting as, justice of the peace.¹ Formerly, if any candidate was "declared by an Election Committee guilty, by himself, or his agents," of "bribery at such election," he not merely lost his seat, but he became incapable of being elected, or sitting in Parliament, for the same place during the then Parliament.² And this is still the law where he is found guilty, by the report of a judge upon an election petition, of bribing through his agents, without his own knowledge and consent.³ But if the judge reports that bribery has been committed by, or with the knowledge and consent of the "candidate," as defined above, he is to be deemed personally guilty of bribery;⁴ and in addition to his election being

CHAP. VI.

Penalties on candidates.

he has had a fair warning of the charge, and is asked to meet it, and be heard by himself and counsel." This dictum of Blackburn, J., was referred to with approval by the Select Committee who were appointed April 11, 1870, to inquire into the state of the law affecting certain members of the House who had been reported guilty of corrupt practices; in the opinion of that committee the distinction between "found guilty" by a competent tribunal and "reported guilty" by commissioners, &c., is substantial, and not formal. See their Report printed June 23, 1870.

¹ *Ib.* s. 45.² 17 & 18 Vict. c. 102, s. 36, App. lvi.³ 31 & 32 Vict. c. 125, s. 46.

⁴ The question as to what amount and what description of evidence will be necessary to satisfy an election tribunal that a candidate is personally guilty of bribery, was elaborately discussed by the Canada Court of Common Pleas in *London case*, 24 Canada Com. Law Rep. 475. The conclusion the Court then came to was, that if "actual ignorance of the prevalence of bribery can only be preserved by a wilful and determined resolution to be and remain ignorant, by a studious and systematic refusal to listen to anything he hears as to the expenses of the election, by insisting upon the subject being always a forbidden

CHAP. VI.

made void, he becomes ineligible for, and incapable of sitting in, Parliament for seven years from the date of his being found guilty, besides incurring the other disabilities to which non-candidates found guilty of bribery under the 45th section are liable, and which have been above enumerated.¹ Finally, by the Ballot Act,² if any person or persons are proved to have been bribed by a candidate or his agent, one vote may, on a scrutiny, be struck from the number of votes given for that candidate for each person who has been so bribed.

Bribery in
the person
bribed :

Such are the provisions with respect to bribery on the part of the briber. The offence on the part of the person bribed is dealt with in the third section of the Corrupt Practices Act, and has two aspects, according to the period at which it is committed ; viz., according as it is committed "before, or during," an election—or after an election.³

Theoretically it is immaterial how long *before* an election a bribe is administered, that is to say, it will be equally bribery whether it be ten years or ten hours before an election that the bribe is given. Practically, however, it makes a considerable difference, as it is in all cases necessary to show that the effect of the bribe was continuing and operative at the time of the election.⁴ For it seems that it would not be held to be bribery within the meaning of the Act if a man was bribed to vote at an elec-

subject of discussion, by shrinking *from* it and averting the eyes from it whenever it appeared to be coming to the light, and a tacit, if not an express, understanding between all the instruments of corruption that the party chiefly interested should be kept in ignorance of the wickedness that was being daily practised," the candidate must be held to be personally guilty of bribery, notwithstanding that he has stated the contrary on oath. The only British case in which a candidate has been found personally guilty of bribery is the *Cashel case*, 1 O. & H. 288.

¹ *Ib.* s. 43.

² Ballot Act, s. 25, App. xcix., and see *Malcolm v. Parry*, L. R. 9 C. P. 610.

³ 17 & 18 Vict. c. 102, s. 3 ; App. lii.

⁴ *Windsor*, 2 O. & H. 90—93.

tion and died before the election took place, nor would it be an offence if, after a bribe had been given, both the briber and the bribed person repented, and the bribe was returned without an election having taken place at all.¹

CHAP. VI

The bribe may be any money, gift, loan, or "valuable consideration,"² office, place, or employment which is received, agreed upon, or contracted for, by the bribed person himself, or by any other person on his behalf; and the offence will be complete, if he receives, &c., such bribe, either for voting, or "agreeing to vote," or for refraining, or "agreeing to refrain," from voting.³ This, it will be seen, supplies a deficiency of the common law by making a corrupt *agreement* to vote, whether fulfilled or not, bribery in the elector.⁴ It differs from bribery on the part of the briber in the following essentials:—It is confined to bribery before or during an election. It is unembarrassed with the subtleties as to agency which have been discussed in connection with bribery in the person bribing; since a voter can only be charged, under this clause, with acts which he himself either did or authorised.

What the
bribe may
consist of.

Bribery, as regards persons bribed *after* an election,⁵ differs from bribery before an election in that the person bribed need not be a voter, and can only be bribed *for his own advantage*, though the bribe may be given to "any other person on his behalf." The bribe is limited to the actual receipt of money, or valuable consideration,³ and does not expressly include loans, offices, places, or employments. The consideration for the bribe may relate to the offender's own vote, or to that of any other person.

Bribery
after an
election.

¹ *Per* Bramwell, B., *ib.* p. 92.

² As to the meaning of "valuable consideration," see *ante*, p. 144.

³ 17 & 18 Vict. c. 102, s. 3 (1), App. liii.

⁴ *Ante*, p. 132.

⁵ 17 & 18 Vict. c. 102, s. 3 (2), App. liii.

CHAP. VI.

Penalty on
persons
bribed :

Bribery, on the part of the person bribed, is a misdemeanour (and in Scotland an offence punishable by fine and imprisonment) ; entailing a penalty of ten pounds for each offence.¹ Moreover, any conviction, or judgment, in a penal action against an elector for the offence, operates as a perpetual disfranchisement. The Revising Barrister is required to expunge the offender's name from the register, to disallow it whenever it is sought to be entered there, and to insert it in the list of disqualified voters.² The mere fact, however, that a voter has been reported by a judge as guilty of bribery is no disqualification whatever.³

At Common
Law :

Treating.] At common law, as has been shown,⁴ treating was always punishable as a *species* of bribery ; the only difference being, that the corrupting premium consisted of food, drink, or both. But it may be doubted whether treating in the sense of ingratiating by mere hospitality, even to the extent of profusion, was struck at by the common law.⁵ If, however, it could be proved that there was at an election an organised and general system of treating in all directions on purpose to influence voters, that houses were thrown open, where people could get drink without paying for it, such an election would be void by the common law, because it would have been carried on contrary to the principle of the law.⁶

By Statute : The Corrupt Practices Prevention Act, 1854, however, has placed treating, in some respects, upon a distinct basis of its own. The offence is defined by the fourth section,⁷ which, so far as the person

¹ 17 & 18 Vict. c. 102, s. 3, App. lli. ; and see ss. 7, 10, 12, 13, 14 ; 26 Vict. c. 29, ss. 5, 6, 7, 9 ; App. lxvii.

² 17 & 18 Vict. c. 102, s. 6 ; App. liv.

³ See *ante*, p. 158, note (6).

⁴ *Ante*, p. 132.

⁵ *Per* Willes, J., *Lichfield case*, 1 O. & H. 25.

⁶ *Per* Martin, B., *Bradford case*, 1 O. & H. 41.

⁷ 17 & 18 Vict. c. 102, s. 4, App. liii.

treating is concerned, applies to "every candidate who shall corruptly by himself, or by, or with, any other person, or by any other ways or means on his behalf, before, during, or after any election," do the acts therein prohibited. The remarks which have been made under the head of bribery, as to being liable for the unauthorised acts of agents,¹ apply to treating,² with the exception that it is only a *candidate*³ who can be made liable, under the statute, as a traitor, either directly or indirectly.

CHAP. VI.

Candidates liable for unauthorised treating by their agents:

The words describing the persons who may be treated are as unlimited as those which describe the persons who may be bribed.⁴

Persons who may be treated:

The premium in treating is defined to be the "giving or providing, or causing to be given or provided, or the being accessory to the giving or providing—or the paying wholly, or in part, any expenses incurred for—any meat, drink, entertainment, or provision."

Premium in treating:

The words which describe the consideration for treating differ from the language used in the clause defining bribery, in this, that the meat, drink, &c., is described as being "*corruptly* given, &c., by the candidate, either before, during, or after an election, in order to be elected, or for being elected." Therefore, in order to prove that an offence has been committed against the 4th section, it must be shown that the treating was *corrupt*, and so too, whether the treating took place before or after the election. "The 4th section," said the Court of Exchequer Chamber in *Cooper v. Slade*,⁵ "only prohibits the *corruptly* giving of meat, &c., for the purpose of corruptly influencing a voter to give a vote; it does not prohibit the *bonâ fide* giving of

Consideration for treating.

Corrupt intention must be made out.

¹ *Ante*, p. 136.

² *Per* Blackburn, J., *Hereford case*, 1 O. & H. 196; *Norfolk case*, *ib.* 242.

³ *Norfolk*, *ib.* 243.

⁴ *Ante*, p. 144.

⁵ 25 L. J. Q. B. 329, cited by O'Brien, J., in the *Carrickfergus case*, 1 O. & H. 266.

CHAP. VI. such meat, &c., unconditionally." The word "corruptly" governs the whole section,¹ and means here, as in sect. 2,² "not wickedly or immorally, or dishonestly, but with the object and intention of doing that which the legislature plainly means to forbid."³ Consequently, "in all cases where there is any evidence to show that meat or drink has been given, it is a question of fact for the judge whether the corrupt intention is made out by the evidence."⁴ Therefore, if the treating which is relied on took place after the election, it must be connected with "something which preceded the election, and so the complement of something done or existing before which was calculated to influence the voter while the vote was in his power."⁵ "A genuine rejoicing spontaneously given without any preconceived idea" is not in itself such a proceeding as will invalidate a past election, although it is possible that, if it be intended to attach voters to a candidate and secure their future support, it may imperil a future election.⁶ If a corrupt intention is not made out, and it appears that meat and drink, although given even somewhat profusely,⁷ and although given on the nomination or polling day, and so *illegally* given,⁸ was given *bonâ fide* and honestly, and not in order to gain votes, the

¹ *Per* Blackburn, J., *Norfolk case*, *ib.* 242.

² *Ante*, p. 150, note (2).

³ *Per* Blackburn, J., in *Bewdley case*, 1 O. & H. 19. See also the meaning of the word "corruptly" discussed by Martin, B. in *Bradford case*, *ib.* 39. In the *Wallingford case*, *ib.* 59, Blackburn, J., further said: "Whenever the intention is by such means to gain popularity, and thereby to affect the election; or if it be that persons are afraid that if they do not provide entertainment and drink they will become unpopular, and they therefore provide it in order to affect the election, I think that is corrupt treating." See also *Mallow case*, 2 O. & H. 15.

⁴ *Per* Blackburn, J., *Bewdley case*, *ib.* 19; *Staleybridge case*, *ib.* 73; *Norfolk case*, *ib.* 243.

⁵ *Per* Grove, J., *Poole*, 2 O. & H. 126.

⁶ *Per* Lush, J., *Brecon*, *ib.* 45.

⁷ See the facts of the *Bradford case*, *ib.* 39.

⁸ By s. 23 of the Corrupt Practices Act it is an illegal act to

election will not be affected thereby.¹ "I have found," said Blackburn, J.,² "that the notion has prevailed that for a candidate to give anything in the way of meat or drink was fatal to an election. That is a salutary notion, and acts as a protective machinery to the candidate, but I cannot lay down the law to the full extent that that goes. But I can say that whenever a candidate or agent gives any meat or drink he does what is a foolish and imprudent thing, because it becomes a question what the intention was in doing such a thing, and if the judge finds that the intention was to influence and affect voters, it vacates the election."

A candidate who treats is liable to a penalty of fifty pounds,³ and on judgment against him in a court of law, to perpetual disfranchisement.⁴ If the offence is proved before an election judge, he loses his seat, and becomes subject to the same parliamentary disqualification as in the case of bribery.⁵

A voter, who corruptly accepts any meat, drink, entertainment, or provision, is thereby rendered incapable of voting at that election;⁶ and where a candidate on the trial of a petition claiming the seat for any person is proved to have treated, either by himself or his agent, any person who voted at such election, there may, on a scrutiny, be struck off from the number of votes given to such candidate, one vote for every person who voted at such election, and is proved to have been

give on the nomination or polling day any meat, drink, or refreshment, or a ticket for the same to any voter on account of such voter having polled or being about to poll. In *Hargreaves v. Simpson*, L. R. 4 Q. B. D. 403, it was held that the provisions of this section are applicable in the case of a municipal election as well as a parliamentary election.

¹ *Wallingford case*, *ib.* 58.

² *Norfolk*, *ib.* 243.

³ 17 & 18 Vict. c. 102, s. 4; App. liii.

⁴ *Id.* s. 6; App. liv.

⁵ *Id.* s. 36; and Parl. El. Act, 1868, s. 46. *Ante*, p. 159.

⁶ 17 & 18 Vict. c. 102, s. 4; App. liii.

CHAP. VI. treated.¹ No disfranchisement, however, or other penalty is imposed on a person who has been found guilty of treating.

At Common
Law.

Undue influence.] Intimidating or in any way unduly influencing a voter is not an indictable offence at common law,² but it has been long held by the common law that an election may be vitiated by an organised system of undue influence of any kind, just the same as by an organised system of bribery or treating.³

What influ-
ence is
undue.

It must be borne in mind that all influences which may be brought to bear upon electors are not necessarily undue or improper influences.⁴ "The mere fact," said Willes, J., "of a man having influence and intentionally retaining it, is not alone evidence of unduly exercising that influence."⁵ And again,⁶ "the law cannot strike at the existence of influence. . . . It is the abuse of influence with which alone the law can deal. Influence cannot be said to be abused, because it exists and operates." So too with regard to spiritual influence, it has never been held illegal for the clergy of any particular denomination to exercise a legitimate influence,⁷ and it is only when it has appeared that spiritual intimidation⁸ has been resorted to that elections have

¹ Ballot Act, s. 25, App. xcix., and see *Malcolm v. Parry*, L. R. 9 C. P. 610.

² See 3 Edwd. I. c. 5 ; App. p. i.

³ *Bradford case*, 1 O. & H. 40 ; *Drogheda case*, *ib.* 259 ; *Galway County case*, 2 O. & H. 56.

⁴ *Bradford case*, *ib.* 40.

⁵ *Windsor case*, *ib.* 6.

⁶ *Lichfield case*, *ib.* 28.

⁷ In the *Galway case*, 1 O. & H. 306, Keogh, J., said : " It is right and becoming that a landlord should use his influence with his tenants, so long as he does not exercise that influence illegitimately. . . . Are, then, the only persons in the community who are not to be at liberty to exercise their legitimate influence, the clergy of the Catholic Church ? I meet with a positive negative any such assumption." See also *Longford case*, 2 O. & H. 13, 16 ; *Galway County case*, 2 O. & H. 56.

⁸ As to what amounts to spiritual intimidation, Keogh, J. (a Catholic judge) said as follows in the *Galway case*, 1 O. & H.

been held to be void. Again, with respect to riots and disturbances on the polling day, it is not sufficient to avoid an election to prove that roughs had been hired (although that is a proceeding very much to be reprobated¹) and that rioting went on, but it must be shown that the rioting was to such an extent as to deter a man of ordinary and reasonable nerve from going to the poll.²

CHAP. VI.

By the Corrupt Practices Prevention Act, 1854, By statute. s. 5, undue influence is elaborately defined, and is made an offence. By that section it is forbidden "to use any violence, or threaten any damage, or resort to any fraudulent contrivance to restrain the liberty of a voter so as either to compel or frighten him into voting or abstaining from voting otherwise than he freely wills."³ It will be seen that this section not only prohibits the infliction or the threat of loss or damage by acts that are clearly illegal and unjustifiable in any event, such as actual personal violence, but also that it applies to acts which a person has a perfect right to do, so long as he does not do them for the purpose of influencing a vote. For instance, where a tenant holds his land from year to year, a landlord has a perfect

307 : "The Catholic clergy are charged with having refused the rites of the Church in order to influence votes. If that had been proved in a single instance I would have avoided the election. It has, however, been proved that in various churches the celebration of the Mass was suspended in order to lecture the people upon the conflicting claims of the different candidates. I think it would be well that the House of God should not be made a place for delivering political discourses in, but I pass that by as a matter of trifling importance. I recognise the full right of the Catholic clergy to address their congregations, to tell them that one man is for the country and another man against the country; nay, more, I would not hold a very hard and fast line as to the language which in excited times may be used by Catholic ecclesiastics."

¹ *Salford case*, 1 O. & H. 140; *Wigan*, *ib.* 192.

² *Nottingham case*, *ib.* 246; *North Durham*, 2 O. & H. 160.

³ *Per Willes, J., Lichfield case*, *ib.* 25.

CHAP. VI. right to give that tenant notice to quit at the end of any year ; but if the landlord threatens to inflict, or does inflict, that turning out of his tenant on account of his vote, that is inflicting harm or loss within the meaning of the Act.¹ So, also, where a person employs a servant, and the servant is continuing in his employment, and would, in all probability, continue so in the ordinary course of things, the master may dismiss him at pleasure, giving him proper notice, and he commits no wrong in doing so ; but if he does it on account of the vote and for the purpose of coercing the voter, the statute intends to make that an infliction of loss which is to be punished.² So also is to threaten to give up renting a pew in a chapel if the minister will not vote according to the pew holder's views.³ As to contravening the Act by a "fraudulent contrivance," it seems that to induce a person to pair, and then to play him false and vote is an offence within this section, although the notion of voters pairing with each other does not appear to be recognised by the law, but to be merely an honourable engagement between the parties.⁴ In the first case⁵ tried since the passing of the Ballot Act it was proved that cards were issued having a mark on them put opposite to the name of one particular candidate, and it was stated on the cards that if any voter marked his ballot paper otherwise than in the way in which the cards were marked his vote would be void. As to this, Blackburn, J., who tried the case, said, "I agree that where there is a fraudulent device of any sort to prevent a voter from voting in a certain way that would come within the intention of the Act. Therefore if I came to the conclusion that these

¹ *Norfolk case*, 1 O. & H. 240 ; *Windsor*, 2 O. & H. 91.

² *Blackburn case*, *ib.* 204 ; *Westbury case*, *ib.* 51 ; *Norfolk case*, *ib.* 240. -

³ *Northallerton case*, *ib.* 168.

⁴ *Ib.* 170.

⁵ *Gloucester*, 2 O. & H. 60.

cards were intended to produce the effect suggested, CHAP. VI.
I should say that the Act had been contravened."

But in order to bring a case within this section it must be shown that the loss or damage inflicted or threatened¹ is of a substantial nature. What may be called a mere precarious loss would not necessarily be sufficient. Thus, if a person who is in the habit, at intervals, of frequenting a shop and giving the tradesman some custom threatens to take away the custom, and go elsewhere, would that be a loss or damage within the meaning of the section? Clearly it would, if the loss proposed to be inflicted in that way were to such an extent as would seriously affect the saleable value of the goodwill of the tradesman's business, but not otherwise. Such a matter, therefore, must be weighed as a question of degree.²

It must also be shown that the intimidation was addressed to some one or more specific individuals, otherwise it will not be intimidation within the meaning of the Corrupt Practices Act, but will come under the head of general intimidation.³ Also, if the loss was merely threatened to be inflicted, but not actually inflicted, the question will always arise whether the threat was a serious and deliberate one, and was meant to affect the vote, or whether it was merely angry words, not meaning anything.⁴

And further, it is necessary to prove in all cases, where a threat has been made, that its effect was continuing and operative at the time of the election. Therefore, where a candidate, immediately after one election, evicted all tenants who had voted against

Loss inflicted or threatened must be substantial, and not merely precarious.

It must be addressed to particular individuals.

Threat must be deliberate, and to particular person.

Effect of threat must be continuing.

¹ It was held in *Walton's case*, Leigh and Cave's Crim. Cas. 298, that a "menace" to be within the meaning of 24 & 25 Vict. c. 96, s. 45, must be "of a nature and extent to unsettle the mind of the person on whom it operates, and take away from his acts that element of free voluntary action which alone constitutes consent."

² *Per Blackburn, J., North Norfolk case*, 1 O. & H. 241, and see observations of Bramwell, B., *North Durham*, 2 O. & H. 158.

³ *Per Bramwell, B., North Durham*, 2 O. & H. 156.

⁴ 1 O. & H. 242.

CHAP. VI.

him at that election, and held out a threat that he would do the same at future elections, it was held that, before he could be unseated for unduly influencing within the meaning of the Act, it must be proved that the effect of the threat, which had been made immediately after the former election (that is to say, six years before the election which was being questioned took place), was actually operating upon the minds of the electors at the time they voted.¹

Election
when void
on account
of general
intimidation.

We have already seen² that an election may be avoided on account of bribery, or treating without any proof of agency, if it appears that an organised and general system existed in the constituency. This is true, also, with regard to general intimidation;³ but before an election is declared void on this ground, it must be clearly proved that the intimidation that existed was so great that it was not a free election; the mere proof that a few persons were deterred from voting by reason of violence received from a mob, would not of itself be sufficient evidence of this.⁴ But it is sufficient if it is proved that the intimidation was of such an extensive character that it is quite possible that the result of the election may have been affected by it, without going on to show that the result actually was, as a fact, affected by it.⁵ It must also be proved that the intimidation was caused (at any rate to a considerable extent) by the supporters of the respondent; for if it were to appear that the rioting, on account of which it was sought to set aside the election, had been mainly, if not entirely, due to the conduct of the supporters of the unsuccessful candidate (whether he were the petitioner

¹ *Per* Bramwell, B., *Windsor*, 2 O. & H. 91.

² *Ante*, p. 162.

³ This has been laid down by the judges in a number of cases. See especially *Bradford*, 1 O. & H. 40; *Drogheda*, 1 O. & H. 258; *Galway County*, 2 O. & H. 56.

⁴ *Per* Blackburn, J., *Stafford*, 1 O. & H. 229.

⁵ *Per* Bramwell, B., *North Durham*, 2 O. & H. 157.

or not), it seems highly improbable that an election would be declared void on this ground, for if it were, the petitioner would in fact be taking advantage of his own wrong.¹

CHAP. VI.
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We have already seen² that, in order to prevent any interference with the freedom of elections on the part of the military, no soldiers are permitted to be at large on the day on which a poll is taken.³ Besides soldiers, there are several other classes of government officers who are specially forbidden, under heavy penalties, to interfere with the freedom of elections; viz., justices, receivers, and police constables appointed under 10 Geo. 4, c. 44, s. 18, rural police,⁴ borough police,⁵ Irish police,⁶ and Scotch police.⁷ Lastly, the interference of ministers and peers in elections is prohibited by resolution of the House of Commons.⁸ A question was raised in a recent election petition⁹ with regard to the effect of these resolutions, and the judge was called upon to report a peer to the House of Commons for acting illegally in contravening the resolution of the House on this subject by canvassing his tenants. The learned judge, however, declined to do so for two reasons, (1) because the mere resolution of the House of Commons has not the force of a statute,¹⁰ and (2) because in his opinion the resolution was not intended to deprive peers who were also landlords of their legitimate influence. "I do not consider," said Keogh, J., "that [in canvassing his tenants in the way in which it was proved that he had canvassed them] Lord Clan-

Interference
of Govern-
ment offi-
cers, minis-
ters, and
peers.

¹ *Per Grove, J., Dudley*, 2 O. & H. 122.

² *Ante*, p. 18.

³ 10 & 11 Vict. c. 21, ss. 2, 3, 4, App. post.

⁴ 2 & 3 Vict. c. 93, s. 9.

⁵ 19 & 20 Vict. c. 69, s. 9, and see *Bewdley*, 1 O. & H. 175.

⁶ 6 & 7 Will. IV. c. 13, s. 18, and c. 29, s. 19.

⁷ 20 & 21 Vict. c. 72, s. 19.

⁸ *May's Parl. Prac.*, ed. 7, p. 645.

⁹ *Galway County*, 2 O. & H. 54.

¹⁰ Keogh, J., in his judgment in this case gives several instances where the effect of this resolution was called in question. See 2 O. & H. 55, and notes.

CHAP. VI. — ricarde has overstepped the bounds of that legitimate influence which he has a right to exercise, or that he has done anything which, unless I were to make him an absolute slave under the terms of the Act, I could prevent his doing."

Penalties. Any person convicted of undue influence is to be deemed guilty of a misdemeanour (in Scotland, of an offence punishable by fine or imprisonment), and is liable to a penalty of fifty pounds.¹ The penalties, disqualification, and disfranchisement, imposed by the 6th and 36th sections of the Corrupt Practices Act, on persons found guilty of the offence of undue influence, are the same as those imposed by that Act upon bribers,² and by the Ballot Act, s. 25,³ if any person or persons are proved to have been unduly influenced by a candidate or his agents, one vote may be struck off on a scrutiny for every person who has been unduly influenced. A vote given under a threat of withdrawing employment has been struck off in a scrutiny by a committee,⁴ as also the vote of the person who exercised the undue influence.⁵

Vote avoided.

Avoidance of elections on the ground of irregularities in the conduct of them.

(1.) By the common law of parliament.

We have finally to consider whether, in the absence of corrupt practices, an election may be avoided on the ground that it was not conducted in the statutory manner, or that its conduct was attended by irregularity. Let us consider, in the first place, how the question stands under the common law of parliament; and, secondly, whether, by virtue of any of the statutes which regulate the manner in which elections are to be held, a non-compliance with the provisions of those statutes will avoid an election. As to the first point, the true statement of the rule appears to be this, that by the common law of parliament an election will be

¹ 17 & 18 Vict. c. 102, s. 5, App. liii.

² *Ante*, p. 157.

³ App. xcix., and see *Malcolm v. Parry*, L. R. 9 C. P. 610.

⁴ *Wareham* (Davis's case), W. & D. 90.

⁵ *Wareham* (Pike's case), W. & D. 91; and see *Northallerton case*, 1 O. & H. 168.

avoided, if it has been so conducted that the tribunal which is asked to avoid it is satisfied, as a matter of fact, either (1) that there was no real electing at all, or (2) that the election was not really conducted under the subsisting election laws. To be satisfied as to the first of these propositions, it is sufficient if (as we have already seen¹ with regard to general intimidation) it be proved either that the majority of the electors *actually had been* prevented, or that there was reasonable ground to believe that a majority *may have been* prevented, from electing the candidate whom that majority preferred. Such a state of things may have arisen in consequence of a want of the machinery necessary for voting (either on account of the polling stations having been demolished, or not opened, or on account of other of the means of voting according to law not having been supplied, or supplied with such errors as to render the voting by means of them void), or it may have arisen from the fraudulent counting of the votes, or from a false declaration of the number of the votes by the Returning Officer, or from other like haps or mishaps. But if the tribunal is only satisfied that certain of such mishaps had occurred, but is not satisfied either that a majority of the electors had been, or that there was reasonable ground to believe that a majority might have been, prevented from electing the candidate they preferred, the mere existence of such mishaps would not, *per se*, entitle the tribunal to declare the election void by the common law of parliament.²

¹ *Ante*, p. 170.

² The above is quoted almost verbatim from the judgment of the Court of Common Pleas in *Woodward v. Sarsons*, L. R. 10 C. P. 744, which judgment, said the Court, "is the result of comparing the judgments of Grove, J., at *Hackney*, 2 O. & H. 81, and *Dudley*, *ib.* 115—121, with the judgment of Martin, B., at *Salford*, 1 O. & H. 133, 140, and Mellor, J., at *Bolton*, 2 O. & H. 138, 142, all which judgments are in accordance with, but express more accurately the grounds of the decisions of parliament in the older cases cited in Rogers on Elections, ed. 10, p. 365. See also judgment of Bacon, V. C., in *Shaw v.*

CHAP. VI.

The other proposition, namely, that the election was not really conducted under the subsisting election laws at all, will not be established by proving no more than that great mistakes were made in carrying out the election; it is necessary to prove that, either wilfully or erroneously, there was a departure from the prescribed method of election, and that the election was not conducted under the existing law, but under some other method. For instance, if during the time of the old laws a candidate had, with the consent of a whole constituency, been selected by tossing up a coin, or by the result of a horse-race, it might well have been said that the electors had exercised their free will; but it could not have been held that they had exercised it in accordance with the existing law, which prescribed that it should be by voting. So now, when the election is to be an election by ballot, if either wilfully or erroneously, a whole constituency were to vote, *but not by ballot at all*, the election might be a free exercise of their will, but it would not be an election by ballot, and would not, therefore, be an election under the existing law. But if, in the opinion of the tribunal, the election was substantially an election by ballot, then no mistakes or misconduct, however great, in the use of the machinery of the Ballot Act could justify the tribunal in declaring the election void by the common law of parliament.¹

Avoidance of elections,
(2.) by virtue of the Election Statutes themselves.

Secondly, we have to consider whether, by virtue of any of the statutes themselves which regulate

Thompson, L. R. 3 Ch. D. 233, as to the effect on an election of illegally conducting it.

¹ *Per cur.* in *Woodward v. Sarsons*, L. R. 10 C. P. 745, and they added, "we agree upon this point with the answer attributed to Martin, B., before a committee of the House of Commons, with his decision at *Salford*, 1 O. & H. 133, and with the decisions of Mellor, J., at Bolton, 2 O. & H. 138, and of Barry, J., at *Drogheda*, 2 O. & H. 201." See also *Horsham case*, 3 O. & H.

the conduct of an election, a non-compliance with the provisions of these statutes will render the election void. Now the general rule is,¹ that if an enactment is absolute or imperative, it must be obeyed or fulfilled exactly; but that it is sufficient, if the enactment be merely directory, that it should be obeyed or fulfilled substantially. The question therefore arises, Are any of the enactments of the Ballot Act absolute; and, if so, which of them? This question arose upon a recent municipal election,² and the Court of Common Pleas then held that, inasmuch as the Ballot Act is divided into two parts, one containing certain sections, and the other consisting of rules and forms, which (although it is specially provided that they are to be construed and have effect as part of the Act) are spoken of as directions, the rules and forms are to be treated as merely directory, but the enactments contained in the sections as being absolute. Consequently the only part of the provisions of the Ballot Act, as to the method of voting, which is to be treated as absolute, is that which is contained in s. 2 (which is all that is said in the body of the Act as to the method of voting), namely, that the voter shall mark his paper *secretly*. The way in which he is to mark it is explained in the rules, and this part of the Act is to be considered as being merely directory. And therefore, by the general rule as to the operation of statutes before mentioned, it is absolutely necessary, for the validity of an election, that arrangements should be made by which the voters may vote secretly; but it will not avoid an election if the directions as to the method of voting are not accurately followed.

¹ Hardcastle on Statutory Law, p. 128; Sedgewick on Statutory Law, ed. 2, p. 318.

² *Woodward v. Sarsons*, L. R. 10 C. P. 733. See also *R. v. Lofthouse*, L. R. 1 Q. B. 433, where it was held that the requirements of 11 & 12 Vict. c. 63, s. 24, as to certain formalities to be observed at the election of a local board of health were not obligatory, and that consequently the omission of some of these formalities did not vitiate the election.

CHAP. VI.
Effect on
election
of commit-
ting offences
specified in
Election
Statutes.

We have lastly to consider what effect is produced upon an election, if any of the offences specified in the various statutes which regulate the conduct of elections are committed by candidates or agents of candidates. It is expressly enacted,¹ as we have already seen,² that if a candidate or his agent is guilty of a corrupt practice, the election of that candidate is thereby avoided. But there is no such enactment with regard to the various other offences which relate to election procedure, and the question has more than once been raised as to what effect will be produced upon an election if it is proved that any of these offences have been committed, even deliberately and systematically, either by a candidate or by some person on his behalf. With regard to treating within the meaning of 17 & 18 Vict. c. 102, s. 23, that is to say, treating that is not corrupt, all the judges, who have had occasion to comment upon the subject, have pointed out³ that merely to give a voter something to eat on the day of nomination or polling, without having any intention of influencing his vote by so doing, is not corrupt treating, and nothing more than an illegal act, and that the only consequence which follows the commission of this illegal act is that the person doing the act will be liable to forfeit 40s. for such offence, the election of the candidate, on whose behalf the treating is done, being in no way affected by it.⁴ It has, however, been argued in several cases, with regard to other Acts of Parliament regulating election procedure, that if a candidate or his agent is proved to have deliberately and systematically infringed them, his election ought to be declared void; and in the *Salford* case,⁵ where this question was first raised with regard to illegally

¹ 17 & 18 Vict. c. 102, s. 36, App. lvi.

² *Ante*, p. 158.

³ *Lichfield*, 1 O. & H. 24; *Tamworth*, *ib.* 83; *Bodmin*, *ib.* 124; *Carrickfergus*, *ib.* 265.

⁴ See, especially, judgment of Willes, J., *Bodmin*, 1 O. & H. 123, 124.

⁵ 1 O. & H. 134.

providing conveyances for voters, Baron Martin appears to have had so much doubt on the point that he consented, if the facts stated were proved, to reserve the point for the Court of Common Pleas. The question has also been raised in several cases¹ since the Salford case, and in the Bolton case² was argued at considerable length with regard to two points; (1), as to the effect of systematically and deliberately violating the secrecy of the ballot, in direct violation of s. 4 of the Ballot Act; and (2) as to the effect of systematically and deliberately violating the provisions of the Representation of the People Acts as to the payment of travelling expenses, and Mr. Justice Mellor then decided, what has ever since been entirely acquiesced in,³ namely that merely to do an illegal act (although it be done deliberately and systematically) does not affect the seat.

CHAP. VI.

¹ A somewhat similar question was raised in the *Mayo case*, 2 O. & H. 191, where the returning officer refused to accept the nomination of a candidate because he had not appointed an expense agent before the nomination day, in accordance with 26 Vict. c. 29, s. 2. "It appears," said Monahan, C. J., "that according to the act of parliament, it is the duty of a candidate to appoint an expense agent, but the Act does not go on to say that the election is rendered void if this expense agent be not appointed." Also in *Drogheda case*, 2 O. & H. 207, it was sought to set aside the election on the ground that it had not been conducted in accordance with the rules laid down in the Ballot Act. This question was reserved by the election judge for the decision of the Court of Common Pleas, but as the court was equally divided upon it, it was referred back and ultimately decided by the election judge himself.

² 2 O. & H. 141, 150. This case was cited with approval by Bramwell, B., *Stroud*, *ib.* 185.

³ See *Woodward v. Sarsons*, L. R. 10 C. P. 733; *Horsham case*, 3 O. & H.

APPENDIX.

3 Edw. 1, c. 5.

AND because elections ought to be free, the King com- Freedom of
mandeth upon great forfeiture that no man by force of arms, election.
nor by malice, or menacing, shall disturb any to make free
election.

7 & 8 Will. 3, c. 7.*

1. THAT all false returns, wilfully made, of any knight of False re-
the shire, citizen, burgess, baron of the cinque ports, or turns of
other member to serve in parliament, are against law, and members
are hereby prohibited; and in case that any person or prohibited.
persons shall return any member to serve in parliament for What shall
any county, city, borough, cinque port, or place, contrary be a false
to the last determination of the House of Commons, of the return.
right of election in such county, city, borough, cinque port,
or place, that such return, so made, shall and is hereby
adjudged to be a false return.

2. That the party grieved, to wit, every person that shall Party
be duly elected, to serve in parliament for any county, city, grieved may
borough, cinque port, or place, by such false return, may sue in any
the officers and persons making or procuring the same, and court at
every or any of them, at his election, in any of His Majesty's Westminster,
courts of record at Westminster, and shall recover double and re-
the damages he shall sustain by reason thereof, together with cover double
his full costs of such suit. damages.

3. And to the end the law may not be eluded by double Remedy
returns, be it further enacted, That if any officer shall against
wilfully, falsely, and maliciously return more persons than officer re-
are required to be chosen by the writ or precept on which turning
any choice is made, the like remedy may be had against him more per-
or them, and the party or parties that willingly procure the sons than
required.

* Made perpetual by 12 Ann. st. 1. c. 15.

same, and every or any of them, by the party grieved, at his election.

Contracts made to procure returns void.

Penalty, £300.

Clerk of the crown to enter every return and amendment.

All persons shall have access to the book: and the book, or a copy, may be given in evidence.

Clerk not entering returns in six days after receipt, making any alteration or omitting to perform his duty, to forfeit £500 and lose his office.

Information to be within two years.

4. That all contracts, promises, bonds, and securities whatsoever, hereafter made or given, to procure any return of any member to serve in parliament, or anything relating thereunto, be adjudged void; and that whoever makes or gives such contract, security, promise, or bond, or any gift or reward, to procure such false or double return, shall forfeit the sum of three hundred pounds, one third part thereof to be to His Majesty, his heirs and successors, another third part thereof to the poor of the county, city, borough, or place concerned, and one third part thereof to the informer, with his costs, to be recovered in any of His Majesty's courts of record at Westminster, by action of debt, bill, plaint, or information, wherein no essoin, protection, or wager of law shall be allowed, nor any more than one imparlance.

5. And for the more easy and better proof of any such false or double return, be it enacted by the authority aforesaid, That the clerk of the crown for the time being shall from time to time enter, or cause to be entered, in a book for that purpose to be kept in his office, every single and double return of any member or members to serve in parliament which shall be returned or come into his office or to his hands, and also every alteration and amendment as shall be made by him or his deputy in every such return; to which book all persons shall have free access at all seasonable times, to search and take true copies of so much thereof as shall be desired, paying a reasonable fee or reward for the same; and that the party or parties prosecuting such suit shall and may at any trial give in evidence such book so kept, or a true copy thereof, relating to such false or double return, and shall have the like advantage of such proof as he or they should or might have had by producing the record itself; any law, custom, or usage to the contrary notwithstanding: and in case the said clerk of the crown shall not, within six days after any return shall come into his office or to his hands, duly and fairly make such entry or entries as aforesaid, or shall make any alteration in any return, unless by order of the House of Commons, or give any certificate of any person not returned, or shall wilfully neglect or omit to perform his duty in the premises, he shall for every such offence forfeit to the party and parties aggrieved the sum of five hundred pounds, to be recovered as aforesaid, and shall also forfeit and lose his said office, and be for ever incapable of having or holding the same.

6. Provided always, That every information or action grounded upon the statute shall be brought within the space of two years after the cause of action shall arise, and not after,

7 & 8 Will. 3, c. 25.

1. THAT when any new parliament shall at any time hereafter be summoned or called, . . . the lord chancellor, lord keeper, or lords commissioners of the great seal for the time being, shall issue out the writs for elections of members to serve in the same parliament, with as much expedition as the same may be done ; and that, as well upon the calling or summoning any new parliament, as also in case of any vacancy during this present or any future parliament, the several writs shall be delivered to the proper officer to whom the execution thereof doth belong or appertain, and to no other person whatsoever ; and that every such officer, upon the receipt of the same writ, shall upon the back thereof indorse the day he received the same. . . .

Writ to be issued out with all expedition, and delivered to the proper officer, who is to indorse the day when received, and make out the precept.

2. That neither the sheriff nor his under-sheriff in any county or city, nor the mayor, bailiff, constable, portreeve, or other officer or officers of any borough, town corporate, port, or place, to whom the execution of any writ [or precept] for electing members to serve in parliament doth belong or appertain, shall give, pay, receive, or take any fee, reward, or gratuity whatsoever, for the making out, receipt, delivery, return, or execution of any such writ [or precept].

Sheriff, &c., not to give or take any fee for making out receipts, &c., of any writ.

5. Every sheriff, under-sheriff, mayor, bailiff, and other officer, to whom the execution of any writ or precept for electing of members to serve in parliament doth belong, for every wilful offence contrary to this Act, shall forfeit to every party so aggrieved the sum of five hundred pounds, to be recovered by him or them, his or their executors or administrators, together with full costs of suit, and for which he or they may sue by action of debt, bill, plaint, or information in any of His Majesty's courts at Westminster, wherein no essoin, protection, wager of law, privilege, or imparlance shall be admitted or allowed.

Penalty on sheriff, &c., committing wilful offence.

3 Geo. 1, c. 15.

8. If any High Sheriff of any county of England or Wales shall happen to die before he be lawfully superseded, in such case the under-sheriff or deputy-sheriff by him appointed shall, nevertheless, continue in his office, and shall execute the same and all things belonging thereunto in the name of the said deceased sheriff until another sheriff be appointed for the said county, and sworn in manner, as is hereinafter directed, and the said under-sheriff or deputy-sheriff shall be answerable for the execution of the said office in all things, and to all intents, respects and purposes whatsoever, during such interval as the high sheriff so deceased would by law have been if he had been living, and the security given to the high sheriff so deceased by the said under-sheriff and his

Under-sheriff to act for high-sheriff in case of high-sheriff's death.

pledges shall stand, remain and be a security to the king, his heirs and successors, and to all persons whatsoever for such under-sheriff's due performance of his office during such interval.

Power to
appoint de-
puty under-
sheriff.

11. Provided that nothing in this Act before contained shall anyways hinder or prevent such high-sheriff from constituting and appointing an under-sheriff or deputy-sheriff to act in his stead, as by law he may and ought to do; nor to hinder the under-sheriff in case of the high-sheriff's death, when he acts as high-sheriff, from constituting or appointing a deputy, which he is hereby empowered to do. . . .

24 Geo. 3, c. 26.

Speaker to
issue his
warrant,
during a
recess, for
making out
writs for
electing
members in
the room of
those who
shall die, or
become
Peers of
Great
Britain.

2. AND be it enacted, that, from and after the passing of this Act, it shall and may be lawful for the Speaker of the House of Commons for the time being, during any recess of the said House, whether by prorogation or adjournment, and he is hereby required to issue his warrant to the clerk of the crown, to make out a new writ for electing a member of the House of Commons in the room of any member of the said House who should happen to die, or who shall become a peer of Great Britain, either during the said recess, or previous thereto, as soon as he shall receive notice, by a certificate, under the hands of two members of the House of Commons, of the death of such member, in the first case; and in the second case, that a writ of summons hath been issued, under the great seal of Great Britain, to summon such peer to parliament; which certificate may be in the form, or to the effect, comprised in the schedule hereunto annexed.

Certificates
of vacancies
to be noti-
fied in the
Gazette.

3. Provided always, and be it enacted, that the Speaker of the House of Commons shall forthwith, after his receiving such certificate, cause notice thereof to be inserted in the London Gazette, and shall not issue his warrant until fourteen days after the insertion of such notice in the Gazette.

Certain re-
strictions on
the Speaker
relative to
issuing his
warrant.

4. Provided also, that nothing herein contained shall extend to enable the Speaker of the House of Commons to issue his warrant for the purposes aforesaid, unless the return of the writ (by virtue of which such member deceased, or become a peer of Great Britain, was elected) shall have been brought into the office of the clerk of the crown, fifteen days at the least before the end of the last sitting of the House of Commons immediately preceding the time when such application shall be made to the Speaker of the House of Commons to issue such warrant as aforesaid; nor unless such application shall be made so long before the then next meeting of the House of Commons for the dispatch of business, as that the writ for the election may be issued before

the day of such next meeting of the House of Commons; nor in case such application shall be made with respect to any seat in the House of Commons which shall have been vacated in either of the elections before-mentioned, by any member of that House against whose election or return to serve in parliament a petition was depending at the time of the then last prorogation of Parliament, or adjournment of the House of Commons.

5. And whereas the due execution of this Act may be prevented or impeded by the death of the Speaker of the House of Commons for the time being, or by his seat in parliament becoming vacant, or by his absence out of the realm, for which inconveniences it is expedient to provide a remedy; Be it therefore enacted by the authority aforesaid, that it shall and may be lawful for the present Speaker of the House of Commons, and he is hereby required, within a convenient time after the passing of this Act, and for every future Speaker of the House of Commons, and he is hereby required within a convenient time after he shall be in that office, at the beginning of any parliament, by any instrument in writing under his hand and seal, to nominate and appoint a certain number of persons, not more than seven, nor less than three, members of the House of Commons at the time being, thereby authorising them, or any one of them, to execute all and singular the powers given to the Speaker of the House of Commons for the time being, for issuing such warrants as aforesaid, by virtue of this Act, subject nevertheless to such regulations and exceptions as are herein also contained; which instrument of appointment and authority shall, notwithstanding the death of the Speaker of the House of Commons making and executing the same, or the vacating his seat in parliament, continue and remain in full force until the dissolution of the parliament in which it shall be made.

SCHEDULE.

We whose names are underwritten, being Two Members of the House of Commons, do hereby certify, that *M.P.* late a member of the said House, serving as one of the Knights of the Shire for the County of [or as the case may be] died upon the day of [or is become a Peer of Great Britain, and that a writ of summons has been issued, under the great seal of Great Britain, to summon him to parliament], [as the case may be]; and we give you this Notice, to the intent that you may issue your warrant to the clerk of the crown, to make out a new Writ for the election of a Knight to serve in parliament for the said County of [or as the case may be] in the room of the said *M.P.* Given under our hands, this day of

To the Speaker of the House of Commons.

NOTE.—That in case there shall be no Speaker of the House of Commons, or of his absence out of the realm, such certificate may be addressed to any one of the persons appointed according to the directions of this Act.

25 Geo. 3, c. 84.*

Every poll to commence at the latest the day after it is demanded.

Return to be made at the close of the poll.

Poll to be kept open seven hours daily.

1. EVERY poll which shall be demanded at any election for a member or members to serve in parliament for any county, city, borough, or other place, or other place within England . . . shall commence on the day upon which the same shall be demanded, or upon the next day at furthest (unless it shall happen to be a Sunday, and then on the day after) and shall be duly and regularly proceeded in from day to day (Sundays excepted) until the same be finished . . . and the returning officer or officers at every such election, shall immediately, or on the day next after the final close of the poll, truly, fairly, and publicly declare the name, or names of the person or persons who have the majority of votes on such poll, and shall forthwith make a return of such person or persons. . . .

3. And in order that electors may have full time and opportunity to poll, Be it enacted, that all and every returning officer and officers, unless prevented by any unavoidable accident, shall, during the continuance on every day subsequent to the commencement of the same, cause the said poll to be kept open for seven hours, at the least, in each day, between the hours of eight in the morning and eight at night.

33 Geo. 3, c. 64.

Notice, of the time and place of elections for members of parliament to be given within certain hours.

THAT, from and after the passing of this Act, all notices to be given of the time and place of any election for members to serve in parliament, shall be publicly given at the usual place or places within the hours of eight of the clock in the forenoon and four of the clock in the afternoon, from the twenty-fifth day of October to the twenty-fifth day of March inclusive, and within the hours of eight of the clock in the forenoon and six of the clock in the afternoon, from the twenty-fifth day of March to the twenty-fifth day of October inclusive, and not otherwise; and that no notice to be given of the time and place of elections of members to serve in parliament shall be deemed or taken to be good or valid notice for any purposes, or to any effect whatsoever,

* Repealed by Ballot Act, 1872, except ss. 1-3, in so far as they relate to the Universities.

which shall not be made and published in the manner and within the time of day aforesaid ; any law, statute, usage, or custom to the contrary notwithstanding.

39 & 40 Geo. 3, c. 67.

2. . . . And be it enacted that whenever His Majesty, Chancellor of Ireland to
his heirs and successors shall, by proclamation under the great seal of the United Kingdom, summon a new parliament. . . . The Chancellor . . . shall cause writs to be issued to be issued to the several countries, cities, the College of the Holy Trinity of Dublin and boroughs in that part of the United Kingdom, called Ireland, specified in this Act, for the election of members to serve in the parliament of the United Kingdom. . . .

52 Geo. 3, c. 144.*

"WHEREAS it is highly necessary, for the preservation of the dignity and independence of parliament, that members of the House of Commons of the United Kingdom, who become bankrupts, and do not pay their debts in full, shall not retain their seats : " Be it therefore enacted, that from and after the passing of this Act, whenever a commission of bankruptcy shall issue and be awarded against any person being a member of the House of Commons, and he shall be found and declared a bankrupt under the same, such member shall be and shall remain, during twelve calendar months from the time of the issuing thereof, utterly incapable of sitting and voting in the said House of Commons, unless within the said period such commission shall be superseded, or unless within the same period the creditors of such member of the House of Commons proving their debts under the commission of bankruptcy shall be paid or satisfied to the full amount of their debts under the said commission : Provided always, that such of the debts, if any, as shall be disputed by such bankrupt, if he shall within the time aforesaid enter into a bond or bonds, in such sum or sums, with two sufficient sureties to be approved by the commissioners under the said commission of bankruptcy, or the major part of them, to pay such sum or sums of money as shall be recovered in any action, suit, or other proceeding in law or equity concerning such debt or debts, together with such costs as shall be given in the same, shall be considered for the purposes of this Act as paid or satisfied.

Declaring
seats of
members to
be vacant in
certain
cases of
bankruptcy.

2. And be it further enacted, by the authority aforesaid, And the

* This Act has been repealed as to England by 32-33 Vict. c. 83,

Speaker to
issue writ
for the elec-
tion of
another
member.

That if the said commission shall not, within twelve calendar months from the issuing thereof, be superseded, nor the debts satisfied in manner aforesaid, then the commissioners, or the major part of them named in such commission, shall and they are hereby required, immediately after the expiration of twelve calendar months from the issuing of the said commission, to certify the same, as the case may be, to the Speaker of the House of Commons of the United Kingdom, and thereupon the election of such member shall be, and is hereby declared to be void; and it shall and may be lawful for the Speaker of the House of Commons for the time being, during any recess of the said house, whether by prorogation or adjournment, and he is hereby required forthwith, after receiving such certificate, to cause notice thereof to be inserted in the London Gazette, and upon the expiration of fourteen days after the day of inserting such notice in the Gazette, to issue his warrant to the clerk of the crown to make out a new writ for electing another member in the room of such member who shall have so vacated his seat: Provided always, that nothing herein contained shall extend to enable the Speaker of the House of Commons to issue his warrant for the purposes aforesaid, unless such certificate shall have been delivered to him so long before the then next meeting of the House of Commons for the despatch of business, as that the writ for the election may be issued before the day of such next meeting of the House of Commons.

Extending
the pro-
visions of
24 G. 3, c. 26.

3. And be it further enacted, by the authority aforesaid, That all and every of the powers contained in an Act of the 24th year of the reign of His present Majesty, for repealing so much of the two former acts as authorised the Speaker of the House of Commons to issue his warrant to the clerk of the crown for making out writs for the election of members to serve in parliament in the manner therein mentioned, and for substituting other provisions for the like purposes, so far as such powers enable the Speaker of the House of Commons to nominate and appoint other persons being members of the House of Commons to issue warrants for the making out of new writs during the vacancy of the office of Speaker, or during his absence out of the realm, shall be and they are hereby made to be in force for the purpose of enabling him to make the like nomination and appointment for issuing warrants, under the like circumstances and conditions, for the election of members of parliament in the room of such whose seats shall become vacant under the provisions of this Act.

53 Geo. 3, c. 89.

1. THAT when any new parliament shall at any time Messengers hereafter be summoned or called, as also in all cases of of the great seal to carry vacancy during this present or any future parliament, the messenger or pursuivant of the great seal, or his deputy, writes to shall, after the receipt thereof, forthwith carry such of the London and said writs as shall be directed to the Sheriffs of London Middlesex; or Sheriff of Middlesex, to the respective offices of such and all other sheriffs or sheriff; and all such other writs to the General Postmaster-Post-Office in London, and there deliver the same to the writes to the Postmaster or Postmasters-General for the time being, or General, who shall to such other person or persons as the said postmaster or forward the postmasters general shall depute to receive the same same (and which deputation they are hereby respectively required to make), who on receipt thereof shall give an acknowledgment in writing of such receipt to the said messenger or his deputy, from whom the same shall be received, expressing therein the time of such delivery, and shall keep a duplicate of such acknowledgment, signed by the parties respectively to whom and by whom the same shall be so delivered; and the said postmaster or postmasters-general, or such their deputy or deputies, shall dispatch all such writs, free from the charges of postage (which they are hereby authorised to do), by the first post or mail after the receipt thereof, under covers, respectively directed to the proper officer or officers to whom the said writs shall be respectively directed, and to no other person whomsoever, accompanied with proper directions to the postmaster, or deputy postmaster of the town or place, or nearest to the town or place where such officer or officers shall hold his or their office, requiring such postmaster or deputy postmaster forthwith to carry such writs respectively to such office, and to deliver the same there to such officer or officers to whom the same shall be respectively directed, or to his or their deputy or deputies, who are hereby respectively required to give to such postmaster or deputy postmaster a memorandum in writing, under his or their hand or hands, acknowledging the receipt of every such writ, and setting forth the day and hour the same was delivered by such postmaster or deputy postmaster, which memorandum shall also be signed by such postmaster or deputy postmaster, who are hereby required to transmit the same by the first or second post afterwards, to the said Postmaster or Postmasters-General, or their respective deputies at the said General Post Office in London, who are hereby required to make an entry thereof in a proper book for that purpose, and to file and keep such memorandum along with the duplicate of the said acknowledgment, signed by the said messenger as aforesaid, to the intent that the same may be inspected or pro-

duced upon all proper occasions, by any person interested in such elections.

Sheriffs, &c.
to give
notice to
Post-
masters-
General
of the place
where they
shall hold
their offices.

2. That [the Chancellor of the County Palatine of Lancaster, the Lord Bishop of Durham, or his temporal chancellor of the County Palatine of Durham, the Chamberlain of the County Palatine of Chester, the Warden of the Cinque Ports,*] the sheriffs and stewarts of the several cities, counties, and stewartries, and all other persons to whom such writs for the election of members to serve in parliament, ought to be and are usually directed, or their respective lieutenants or deputies, shall, within one month after the passing of this Act, severally send up to the said Postmaster-General an account of the city, town, or place where they shall hold their respective offices for the purpose aforesaid, specifying in such account such particulars as shall be necessary to ascertain the particular situation of such respective offices, and so from time to time, with all convenient speed, as often as the places for holding such offices shall be changed; and also an account of such general post town or place as shall be nearest to such offices respectively, in case such respective offices shall not be in any general post town or place; and the said Postmasters-General shall make or cause to be made a list of such places, and cause the same to be hung up and kept in some public place in the General Post-Office aforesaid.

Where
sheriffs hold
their office
in or near
the capital,
such notice
to be sent to
the messenger
of the
great seal.

3. Provided always, That in all cases where any such sheriff or other person to whom such writs ought to be directed, shall hold his office within the cities of London or Westminster, or the borough of Southwark, or within five miles thereof, such sheriff or officer shall send such account as aforesaid of the place where he shall hold such office, to the messenger of the great seal, instead of the said Postmaster-General; and the said messenger or his deputy shall carry all such writs to such office, in like manner as is herein-before directed in the case of the Sheriffs of London and Middlesex.

All persons
wilfully ne-
glecting to
deliver Writ
guilty of a
misde-
meanor.

6. That every person concerned in the transmitting or delivery of any such writ as aforesaid, who shall wilfully neglect or delay to deliver or transmit any such writ, or accept any fee, or do any other matter or thing in violation of this Act, shall be guilty of a misdemeanor, and may, upon any conviction upon any indictment or information in His Majesty's Court of King's Bench, be fined and imprisoned at the discretion of the Court for such misdemeanor.

Offences in
Scotland
how to be
punished.

7. That every person who shall commit in Scotland any offence against this Act, which is hereby declared to be a

The words in brackets are repealed by Stat. Law Revision Act, 1873.

misdeemeanor, shall be liable to be punished by a fine or imprisonment, as the judge or judges before whom such offender shall be tried and convicted may direct.

60 Geo. 3 & 1 Geo. 4, c. 11.

4. THAT in every case in which a poll shall take place at any election for any county, county of a city, or county of a town or place, the returning officer shall certify on the back of such return to the writ for holding such election the names of the candidates, the numbers who voted for each candidate as it appeared at the final close of the poll; and such certificate shall be admitted as evidence of the truth of the facts therein certified, unless disproved by contrary evidence.

Certificate on the back of the return.

5. That immediately after the receipt of the writ for making an election for any county, the sheriff of such county shall and he is hereby required to endorse thereon the date of receiving the same

Sheriff shall indorse on writ for county elections the time of receiving thereof.

22. That at any election of a member to serve in parliament for any county, city, borough, or town, it shall be lawful to and for the returning officer or officers to summon all constables, bailiffs, and other peace officers to attend the places of polling, and to keep the peace at such election, and to perform such other things as shall be assigned to him by the returning officer or officers, and to appoint any number of special constables that he or they may think proper to aid and assist therein, and that every such constable, bailiff, or peace officer who shall be so employed, shall be entitled to receive the sum of five shillings for each day of his attendance; and that every constable, bailiff, or peace officer, when so summoned, who shall neglect to attend during the whole of such election, or to obey the lawful commands of the returning officer or officers, shall forfeit such office of constable, bailiff, or other peace officer, and all salary due to him in respect thereof.

Returning officer may summon constables, bailiffs, &c. to attend elections, and remunerate them.

24. Re-enacted, with additions, by 4 G. 4, c. 55, s. 67.*

25. That every returning officer who shall be by due course of law convicted of having acted corruptly or partially in the execution of his duty, as returning officer at any election of a member or members to serve in parliament, shall be adjudged guilty of a high misdemeanor, and shall be imprisoned for a period not exceeding three years; and such person so convicted is hereby declared to be for ever incapable of holding any office or situation, civil or military, under the crown.

Punishment of officers returning corruptly or partially.

26. That the expense of erecting booths or hiring buildings, and of employing assessors, sub-sheriffs, deputy-sheriffs, clerks of the peace, deputy clerks of the peace,

Returning officer's expenses of the election.

* Post, p. xv.

assistant deputy clerks of the peace, poll-clerks, and other clerks, interpreters, and constables, bailiffs, or other peace officers, and all other persons directed by this Act and by other Acts of parliament to be employed by the returning officer or officers for the conducting of an election for any county, city, borough, or other place, and also the expense of making proclamations and returns, and of stationery, and of advertisements, and all other expenses necessary for the purpose of providing the means of taking the poll at any such election shall in the first instance be paid by the returning officer presiding at such election.

Persons
polling
twice, or
personating
voters, may
be punished
by two
years' im-
prisonment.

36. That every person who shall poll a second time or offer to poll a second time at the same election, or who shall personate any other person * [or attempt to personate any other person], for the purpose of polling at such election, shall be guilty of a misdemeanour, and upon being thereof convicted in any of His Majesty's courts of record in Dublin, shall be imprisoned for any term not more than two years, at the discretion of the judge or judges who shall try such person.

1 & 2 Geo. 4, c. 58.

No charges
to be made
for elections
in Ireland
but those
included in
Schedule
(A).

"WHEREAS it is expedient to regulate the expenses of elections of members to serve in Parliament for Ireland ;" Be it therefore enacted, &c., That from and after the passing of this Act, no other charges shall be made for any thing performed or done in the execution of any writ or precept for holding an election in Ireland, besides the charges set forth in the schedule (A) to this Act annexed, any Act to the contrary notwithstanding.

No persons
but those
mentioned
in schedule
entitled to
fees.

2. That no other person besides the persons mentioned in the said schedule, shall be entitled to receive any fee or reward for anything performed or done in the execution of any writ or precept for holding an election, any Act to the contrary notwithstanding.

No rewards
or presents
to be given
to returning
officers.

3. That no person to be hereinafter elected to serve in parliament for any county, city, or town, or borough, shall, by himself, his friends, or agents, or by any person or persons employed in his behalf, directly or indirectly give any fee or reward of any kind, or make any payment of money by way of compliment or gratuity, or upon any account whatever, to any sheriff or under-sheriff, deputy-sheriff, returning officer, or deputy returning officer, clerk of the peace or deputy clerk of the peace; and that every such person or persons who shall so give any fee or reward of any kind, or make any payment of money by way of com-

* Words between brackets omitted in 4 G. 4, c. 55, s. 82.

pliment, or gratuity, or upon any account whatever, to any sheriff or under-sheriff, deputy, deputy-sheriff, returning officer, deputy returning officer, clerk of the peace, or deputy clerk of the peace, shall be and is and are hereby declared to be disabled and incapacitated to serve in parliament upon such election for such county, city, town, or borough.

5. That from and after the passing of this Act, no candidate at an election for any county, city, town, or borough, shall pay to any barrister, agent, inspector, or clerk, any sum or sums of money for his attendance or trouble at any such election, which shall exceed the sum or sums set forth in the schedule (B) to this Act annexed.

6. That if any such candidate shall give, by himself, his friends, or his agents, or by any person or persons employed by him or them, any sum or sums of money, fee, retaining fee, office, place, or employment, gift, or reward, or any promise or security for any money, fee, retaining fee, office, place of employment, to any barrister, agent, inspector, or clerk, for doing any thing of and concerning any matter relating to any such election, directly or indirectly, over and above the sum or sums set forth to be paid in the said schedule to any barrister, agent, inspector, or clerk, he shall be and is hereby declared to be disabled and incapacitated to serve in parliament upon such election for such county, city, town, or borough.

8. That nothing in this Act contained shall cause any candidate at an election for any county, city, town, or borough to be liable to the payment of any charge or charges for the expenses attending the execution of any writ or precept for holding an election, to which he was not liable previous to the said Act of the first year of the reign of his present Majesty; [except for such additional places of polling, and additional deputy clerks of the peace, and deputy assistant clerks of the peace, as are by the said Act required to be provided.] *

SCHEDULE (A).

Charges for executing a Writ or Precept for holding an Election. £ s. d.

† For providing each place of polling or booth for commissioners, for administering oaths of qualification to Roman Catholics, each place of polling or booth not being in a public building, a sum not exceeding	15 0 0
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* The words in brackets are repealed by Stat. Law Revision Act, 1873,

† This item is repealed by Stat. Law Revision Act, 1873.

	£	s.	d.
* Such place of polling or booth being in a public building, a sum not exceeding . . .	7	10	0
For the assessor to the returning officer, for attending the election, [and for the first day's polling,] a sum not exceeding . . .	50	0	0
* For each subsequent day's attendance, a sum not exceeding . . .	11	7	6
* For each poll-clerk, for each day's polling, a sum not exceeding . . .	1	2	9
* For each deputy clerk of the peace, for each day's polling, a sum not exceeding . . .	0	10	0
* For each assistant deputy clerk of the peace, for each day's polling, a sum not exceeding . . .	0	5	0
For each interpreter, for each day's attendance at a poll which may be required, a sum not exceeding . . .	0	10	0
For each constable (of whom not more than two employed to attend a place of polling shall be paid), for each day's polling, a sum not exceeding . . .	0	5	0

The said allowances to cover all extra and incidental expenses belonging to each of the above-mentioned persons.

For all incidental expenses, such as indentures, stamps, poll-books, advertisements, stationery, and all other expenses belonging to the execution of a writ or precept for holding an election, a sum not exceeding the rate of three pounds for each place of polling.

SCHEDULE (B).

Payments which a Candidate may make at an Election to his Counsel, Agents, Inspectors, and Clerks.

To one barrister, as counsel for attending the election, [and for the first day's polling,] a sum not exceeding . . .	£	s.	d.
* For each subsequent day's polling, a sum not exceeding . . .	50	0	0
To one conducting agent, a sum not exceeding . . .	11	7	6
* And an additional sum to cover all expenses <i>bond fide</i> incurred for making up books, and for other expenses necessary for taking a poll.	100	0	0
To every other agent or inspector, [for the first day's polling,] a sum not exceeding . . .	6	16	6
* For every subsequent day's polling, a sum not exceeding . . .	3	8	3

* These items are repealed by Stat. Law Revision Act, 1873,

To each cheque clerk, and other clerk, [for each £ s. d.
day's polling,] a sum not exceeding . . . 0 15 0

The said allowances to cover all expenses for lodging, diet, and all other extra incidental expenses belonging to each of the above-mentioned persons. (No candidate to pay more than one counsel, one conducting agent, one inspector, and one cheque clerk, for each place of polling; one agent for the sheriff's booth, three agents for preparing tallies, and two clerks for the same purpose, for each barony or half-barony.)

4 Geo. 4, c. 55.

33. A re-enactment of 1 Geo. 4, c. 11, s. 5, as applies to cities and towns being counties.*

63. That any deputy-sheriff, poll clerk, clerk of the peace, deputy clerk of the peace, assistant deputy clerk of the peace, deputy town clerk, or other officer, interpreter, constable, balliff, or peace officer, who shall absent himself from the duty of his office at any election of a member or members to serve in parliament for any county of a city, or county of a town, during any part of the time that the poll shall be kept open on each day, shall forfeit all compensation for his attendance during such election; and the returning officer is hereby authorised and required in case of the absence, neglect, misconduct, or insufficiency of any such person or persons immediately to remove any such person or persons, and to appoint a person or persons to fill his or their place or places.†

Officers neglecting duty at election.

66. Re-enactment of 1 G. 4, c. 11, s. 22, *quod vide*.‡

67. That in case of the death or the severe illness of any returning officer during the continuance of the poll at any election for a county of a city or a county of a town, it shall and may be lawful [for the other returning officer, if there be two such returning officers,] or for the first sworn deputy [if there be but one returning officer, or being two returning officers, in case of the death or severe illness of both such returning officers], and he is hereby required, under the penalty of forfeiting £500, and such other returning officer or such sworn deputy, as the case may be, to any person who shall sue for the same, to proceed with the poll, and to act in every respect for all the purposes of the election, and with all the power and authority to do any act required by law to be done by a returning officer at any such election, as if he had been originally the

In case of death or illness of returning officer, first sworn deputy shall perform the duty.

* Ante, p. xi.

† The similar section as to counties, viz. 60 Geo. 3 & 1 Geo. 4, c. 11, s. 42, is repealed by the Ballot Act.

‡ Ante, p. xi.

In case the first sworn deputy should not be able to act, then the deputies in succession shall perform the duty.

returning officer; and that such deputy shall take the oath directed by law to be taken by the returning officer at the commencement of the poll, which oath any two justices of the peace are hereby authorised to administer; and that such other returning officer or deputy shall proceed with the poll, and finally close the same at the time hereinbefore required, and make a return of the person or persons who hath or have the majority of votes, unless his authority shall be superseded by the recovery of the returning officer; and that in case of the death or severe illness of such first sworn deputy, the next deputy in succession shall act as the returning officer, subject to the like penalty, and with the same powers, and take the returning officer's oath in manner aforesaid, and so on, each deputy in succession shall in like manner act as the returning officer in case of the death or severe illness of the acting returning officer [and another deputy, or other deputies shall be appointed in lieu of the deputy or deputies who may thus take the place of such returning officer or officers: Provided always that the deputy, who shall thus take the place of such returning officer shall be entitled to the same remuneration for his services at such election as if he had continued to act as deputy].

Returning officer to certify numbers who voted for respective candidates.

71. That in every case in which a poll shall take place at any election for any county of a city or county of a town in Ireland, the returning officer shall certify in his return to the writ for holding such elections, the names of the candidates and the numbers who voted for each candidate, as it appeared at the final close of the poll, and such certificate shall be admitted as evidence of the truth of the facts therein certified unless disproved by contrary evidence.

No fee to returning officer.

73. That no fee, gratuity, or reward whatsoever shall be given, paid, received, or taken by any sheriff or returning officer of any county of a city or county of a town for making out or for the delivery, return, or execution of any writ [or precept] for the electing a member or members to serve in parliament; and that all contracts, promises, bonds, and securities to be made or given to any sheriff or other returning officer for making a return of any member to serve in parliament, or to pay such sheriff or returning officer any sum or sums of money by way of gratuity or reward for making such return or otherwise in respect thereof, shall be and are hereby declared to be null and void: and whosoever shall make, give, or accept of such contract, promise, bond, or other security or gift, or reward to procure any false return shall forfeit a sum equal to the value given or accepted in such contracts, promise, or other security, gift, or reward, and also the further sum

of two hundred pounds to any person who shall first sue for the same.

75. Every returning officer who shall by due course of law be convicted of having acted corruptly or partially in the execution of his duty as returning officer at any election of a member or members to serve in parliament for any county of a city or county of a town, shall be adjudged guilty of high misdemeanour, and shall be imprisoned for a period not exceeding three years, and such person so convicted is hereby declared to be for ever incapable of holding any office or situation, civil or military, under the Crown.

Officers returning corruptly or partially.

82. Re-enactment of 60 Geo. 3 & 1 Geo. 4, c. 11, s. 36.*

2 Will. 4, c. 45.

11. That the persons respectively described in the said schedules (C.) and (D.) shall be the returning officers at all elections of a member or members to serve in parliament for the boroughs in conjunction with which such persons are respectively mentioned in the said schedules (C.) and (D.); and that for those boroughs in the said schedules for which no persons are mentioned in such schedules as returning officers, the sheriff for the time being of the county in which such boroughs are respectively situate shall, within two months after the passing of this Act, and in every succeeding respective year in the month of March, by writing under his hand, to be delivered to the clerk of the peace of the county within one week and to be by such clerk of the peace filed and preserved with the records of his office, nominate and appoint for each of such boroughs a fit person, being resident therein, to be, and such person so nominated and appointed shall accordingly be, the returning officer for each of such boroughs respectively until the nomination to be made in the succeeding March; and in the event of the death of any such person, or of his becoming incapable to act by reason of sickness or other sufficient impediment, the sheriff for the time being shall on notice thereof forthwith nominate and appoint in his stead a fit person, being so resident as aforesaid, to be, and such person so nominated and appointed shall accordingly be, the returning officer for such borough for the remainder of the then current year; and no person, having been so nominated and appointed as returning officer for any borough shall after the expiration of his office be compellable at any time thereafter to serve again in the said office for the same borough: Provided

Description of the returning officers for the new boroughs.

* Ante, p. xii.

Who disqualified. always, that no person being in holy orders, nor any churchwarden or overseer of the poor within any such borough, shall be nominated or appointed as such returning officer for the same ; and that no person nominated and appointed as returning officer for any borough now sending or hereafter to send members to parliament, shall be appointed a churchwarden or overseer of the poor therein during the time for which he shall be such returning officer : Provided also, that no person qualified to be elected to serve as a member in parliament shall be compellable to serve as a returning officer for any borough for which he shall have been nominated and appointed by the sheriff as aforesaid, if within one week after he shall have received notice of his nomination and appointment as returning officer he shall make oath of such qualification before any justice of the peace, and shall forthwith notify the same to the sheriff : Provided also, that in case His Majesty shall be pleased to grant his royal charter of incorporation to any of the boroughs named in the said schedules (C.) and (D.) which are not now incorporated, and shall by such charter give power to elect a mayor or other chief municipal officer for any such borough, and then in every such case such mayor or other chief municipal officer for the time being shall be the only returning officer for such borough ; and the provisions hereinbefore contained with regard to the nomination and appointment of a returning officer for such borough shall thenceforth cease and determine.

Who exempt. which he shall be such returning officer : Provided also, that no person qualified to be elected to serve as a member in parliament shall be compellable to serve as a returning officer for any borough for which he shall have been nominated and appointed by the sheriff as aforesaid, if within one week after he shall have received notice of his nomination and appointment as returning officer he shall make oath of such qualification before any justice of the peace, and shall forthwith notify the same to the sheriff : Provided also, that in case His Majesty shall be pleased to grant his royal charter of incorporation to any of the boroughs named in the said schedules (C.) and (D.) which are not now incorporated, and shall by such charter give power to elect a mayor or other chief municipal officer for any such borough, and then in every such case such mayor or other chief municipal officer for the time being shall be the only returning officer for such borough ; and the provisions hereinbefore contained with regard to the nomination and appointment of a returning officer for such borough shall thenceforth cease and determine.

Proviso. also, that in case His Majesty shall be pleased to grant his royal charter of incorporation to any of the boroughs named in the said schedules (C.) and (D.) which are not now incorporated, and shall by such charter give power to elect a mayor or other chief municipal officer for any such borough, and then in every such case such mayor or other chief municipal officer for the time being shall be the only returning officer for such borough ; and the provisions hereinbefore contained with regard to the nomination and appointment of a returning officer for such borough shall thenceforth cease and determine.

Six knights of the shire for York-shire ; two for each riding. 12. That in all future parliaments there shall be six knights of the shire, instead of four, to serve for the county of York (that is to say), two knights for each of the three ridings of the said county to be elected in the same manner, and by the same classes and descriptions of voters, and in respect of the same several rights of voting, as if each of the three ridings were a separate county ; and that the court for the election of knights of the shire for the North Riding of the said county shall be holden at the city of York, and the court for the election of knights of the shire for the West Riding of the said county shall be holden at Wakefield, and the court for the election of knights of the shire for the East Riding of the said county shall be holden at Beverley.

Four knights of the shire for Lincoln-shire ; two for the parts of Lindsey, two for Kesteven and Holland. 13. That in all future parliaments there shall be four knights of the shire, instead of two, to serve for the county of Lincoln (that is to say), two for the parts of Lindsey in the said county, and two for the parts of Kesteven and Holland in the same county ; and that such four knights shall be chosen in the same manner, and by the same classes and descriptions of voters, and in respect of the same several rights of voting, as if the said parts of Lindsey were a separate county, and the said parts of Kesteven and

Holland together were also a separate county; and that the court for the election of knights of the shire for the parts of Lindsey in the said county shall be holden at the city of Lincoln, and the court for the election of knights of the shire for the parts of Kesteven and Holland in the said county shall be holden at Sleaford.

14. That each of the counties enumerated in the schedule marked (F.) to this Act annexed shall be divided into two divisions. . . . and that the court for the election of knights of the shire for each division of the said counties shall be holden at the place to be named for that purpose in the Act so to be passed as aforesaid for settling and describing the divisions of the said counties.

Certain
counties to
be divided.

61. That the Sheriffs of Yorkshire and Lincolnshire, and the Sheriffs of the counties divided by this Act, shall duly cause proclamation to be made of the several days fixed for the election of a knight or knights of the shire for the several ridings, parts, and divisions of their respective counties, and shall preside at the election by themselves or their lawful deputies.

Sheriffs of
the divided
counties to
fix the time
and preside
at elections.

64. That at every contested election for any county, or riding, parts, or division of a county, the sheriff, under sheriff, or sheriff's deputy, shall, if required thereto by or on behalf of any candidate, on the day fixed for the election, and if not so required may if it shall appear to him expedient, cause to be erected a reasonable number of booths for taking the poll at the principal place of election, and also at each of the polling places so to be appointed as aforesaid, and shall cause to be affixed on the most conspicuous part of each of the said booths the names of the several parishes, townships, and places for which such booth is respectively allotted; and no person shall be admitted to vote at any such election in respect of any property situate in any parish, township, or place, except at the booth so allotted for such parish, township, or place, and if no booth shall be so allotted for the same, then at any of the booths for the same district; and in case any parish, township, or place shall happen not to be included in any of the districts to be appointed, the votes in respect of property situate in any parish, township, or place so omitted shall be taken at the principal place of election for the county, or riding, parts, or division of the county, as the case may be.

As to booths
at the poll-
ing places
for counties.

No voter to
poll out of
the district
where his
property
lies.

66. That in all matters relative to the election of knights or a knight of the shire to serve in any future parliament for any county, or for any riding, parts, or division of a county, the sheriff of the county, his under sheriff, or any lawful deputy of such sheriff, shall have power to act in all places having any exclusive jurisdiction or privilege whatsoever, in the same manner as such sheriff, under sheriff, or deputy

Sheriff in
county elec-
tions may
act in place
of exclusive
jurisdiction.

may act within any part of such sheriff's ordinary jurisdiction.

Each person to vote at the booth appointed for his parish or district.

68. That at every contested election of a member or members to serve in any future parliament for any city or borough in England, [except the borough of Monmouth]* the returning officer shall cause to be affixed on the most conspicuous part of each of the said booths the names of the several parishes, districts, and parts for which such booth is respectively allotted; and no person shall be admitted to vote at any such election, except at the booth allotted for the parish, district, or part wherein the property may be situate in respect of which he claims to vote, or in case he does not claim to vote in respect of property, then wherein his place of abode as described in the register may be; but in case no booth shall happen to be provided for any particular parish, district, or part as aforesaid, the votes of persons voting in respect of property situate in any parish, district, or part so omitted, or having their place of abode therein, may be taken at any of the said booths, and the votes of freemen residing out of the limits of the city or borough may be taken at any of the said booths; and public notice of the situation, division, and allotment of the different booths shall be given two days before the commencement of the poll by the returning officer. Provided also, that no nomination shall be made or election holden of any member for any city or borough in any church, chapel, or other place of public worship.

No nomination to be held in place of public worship. When returning officers may close the poll before the expiration of the time fixed. Adjournment of poll in case of interruption or obstruction.

70. That nothing in this Act contained shall prevent any sheriff or other returning officer, or the lawful deputy of any returning officer, from closing the poll previous to the expiration of the time fixed by this Act, in any case where the same might have been lawfully closed before the passing of this Act; and that where the proceedings at any election shall be interrupted or obstructed by any riot or open violence, the sheriff or other returning officer, or the lawful deputy of any returning officer, shall not for such cause finally close the poll, but, in case the proceedings shall be so interrupted or obstructed at any particular polling place or places, shall adjourn the poll at such place or places only until the following day, and if necessary shall further adjourn the same until such interruption or obstruction shall have ceased, when the returning officer or his deputy shall again proceed to take the poll at such place or places; and any day whereon the poll shall have been so adjourned shall not, as to such place or places, be reckoned one of the two days of polling at such election within the meaning of this Act; and wherever the poll shall have been so adjourned by any deputy of the sheriff or other returning officer, such

These words are repealed by the Statute Law Revision Act, 1874, so long as the Ballot Act, 1872, continues in force.

deputy shall forthwith give notice of such adjournment to the sheriff or returning officer, who shall not finally declare the state of the poll, or make proclamation of the member or members chosen, until the poll so adjourned at such place or places as aforesaid shall have been finally closed and delivered or transmitted to such sheriff or other returning officer; anything hereinbefore contained to the contrary notwithstanding.

71. That from and after the end of this present parliament all booths erected for the convenience of taking polls shall be erected at the joint and equal expense of the several candidates, and the same shall be erected by contract with the candidates, if they shall think fit to make such contract, or if they shall not make such contract, then the same shall be erected by the sheriff or other returning officer at the expense of the several candidates as aforesaid, subject to such limitation as is hereinafter next mentioned; (that is to say,) that the expense to be incurred for the booth or booths to be erected at the principal place of election for any county, riding, parts, or division of a county, or at any of the polling places so to be appointed as aforesaid, shall not exceed the sum of £40 in respect of any one such principal place of election or any one such polling place; and that the expense to be incurred for any booth or booths to be erected for any parish, district, or part of any city or borough shall not exceed the sum of £25 in respect of any one such parish, district, or part. Provided always, that if any person shall be proposed without his consent, then the person so proposing him shall be liable to defray his share of the said expenses in like manner as if he had been a candidate.

Candidates or persons proposing a candidate without his consent, to be at the expense of booths and poll-clerks. Limitation of expense.

75. That all laws, statutes, and usages now in force respecting the election of members to serve in parliament for that part of the United Kingdom called England and Wales, shall be and remain, and are hereby declared to be and remain in full force, and shall apply to the election of members to serve in parliament for all the counties, ridings, parts, and divisions of counties, cities, and boroughs, hereby empowered to return members, as fully and effectually as if the same respectively had heretofore returned members, except so far as any of the said laws, statutes, or usages are repealed or altered by this act, or are inconsistent with the provisions thereof.

All election laws to remain in force, except where superseded by this Act.

76. That if any sheriff, returning officer, barrister, overseer, or any person whatsoever, shall wilfully contravene or disobey the provisions of this Act or any of them, with respect to any matter or thing which such sheriff, returning officer, barrister, overseer, or other person is hereby required to do, he shall for such his offence be liable to be sued in an action of debt in any of His Majesty's courts of record at Westminster for the penal sum of five hundred pounds; and

Penalties on officers for breach of duty.

the jury before whom such action shall be tried may find their verdict for the full sum of five hundred pounds, or for any less sum which the said jury shall think it just that he should pay for such his offence; and the defendant in such action, being convicted, shall pay such penal sums so awarded, with full costs of suit, to the party who may sue for the same: Provided always, that no such action shall be brought except by a person being an elector, or claiming to be an elector, or a candidate, or a member actually returned, or other party aggrieved: Provided also, that the remedy hereby given against the returning officer shall not be construed to supersede any remedy or action against him according to the law now in force.

Writs, &c.,
to be made
conformable
to this Act.

77. That all writs to be issued for the election of members to serve in all future parliaments, and all mandates, precepts, instruments, proceedings, and notices consequent upon such writs, shall be and the same are hereby authorised to be framed and expressed in such manner and form as may be necessary for the carrying the provisions of this Act into effect.

This Act not
to extend to
universities
of Oxford
and Cam-
bridge.

78. Provided always, that nothing in this Act contained shall extend to or in anywise affect the election of members to serve in parliament for the universities of Oxford or Cambridge, or shall entitle any person to vote in the election of members to serve in parliament for the city of Oxford or town of Cambridge in respect of the occupation of any chambers or premises in any of the colleges or halls of the universities of Oxford or Cambridge.

Of the sense
in which
words in this
Act are to be
understood:
"City or
borough;"

79. That, throughout this Act, wherever the words "city or borough," "cities or boroughs," may occur, those words shall be construed to include, except there be something in the subject or context manifestly repugnant to such construction, all towns corporate, cinque ports, districts, or places within England and Wales which shall be entitled after this Act shall have passed to return a member or members to serve in parliament, other than counties at large, and ridings, parts, and divisions of counties at large, and shall also include the town of Berwick-upon-Tweed: and the words "returning officer" shall apply to every person or persons to whom, by virtue of his or their office, either under the present Act, or under any former law, custom, or statute, the execution of any writ or precept doth or shall belong for the election of a member or members to serve in parliament, by whatever name or title such person or persons may be called; and the words "parish or township" shall extend to any parish, township, vill, hamlet, district, or place maintaining its own poor; and the words "overseers of the poor" shall extend to all persons who by virtue of any office or appointment shall execute the duties of overseers of the poor, by whatever name or title such persons may be

"Returning
officer;"

"Parish or
township;"

"Overseers
of the poor;"

called, and in whatsoever manner they may be appointed ; and that all matters by this Act directed to be done by the overseers of a parish or township may be lawfully done by the major part of such overseers ; and that wherever any notice is by this Act required to be given to the overseers of any parish or township, it shall be sufficient if such notice shall be delivered to any one of such overseers, or shall be left at his place of abode, or at his office or other place for transacting parochial business, or shall be sent by the post, addressed by a sufficient direction, to the overseers of the particular parish or township, or to any one of them, either by their or his Christian name and surname, or by their or his name of office ; and that all provisions in this Act relative to any matters to be done by or with regard to justices of the peace for counties, or sessions of the peace for counties, or clerks of the peace for counties, or treasurers of counties, shall extend to the justices, sessions, clerks of the peace, and treasurers of the several ridings of Yorkshire and parts of Lincolnshire ; and that the clerk of the peace for the time being for the borough of Newport in the Isle of Wight shall for the purposes of this Act be deemed and taken to be the clerk of the peace for the county of the Isle of Wight ; and that all the said respective justices, sessions, and clerks of the peace shall have power to do the several matters required by this Act, as well within places of exclusive jurisdiction as without ; and that no misnomer or inaccurate description of any person or place named or described in any schedule to this Act annexed, or in any list or register of voters, or in any notice required by this Act, shall in anywise prevent or abridge the operation of this Act with respect to such person or place, provided that such person or place shall be so designated in such schedule, list, register, or notice as to be commonly understood.

Justices of
the peace for
counties, &c.

Misnomer
not to
vitiate.

2 & 3 Will. 4, c. 64.

34. THAT if it shall seem fit to the sheriff, the court for the election of knights of the shire may be held or the poll may be taken at any place or spot in the neighbourhood of any place appointed by this Act for holding such court or taking such poll respectively, at which such court or poll may have heretofore been held or taken, or which may be convenient for either of those purposes, anything herein contained notwithstanding.*

Election
may take
place at
places in the
neighbour-
hood of
those named
in this Act.

* This section is repealed by the Ballot Act so far as it relates to taking the poll.

2 & 3 Will. 4, c. 65.

Sheriffs shall divide their counties into districts for polling, and appoint polling places.

Town clerks shall appoint polling places in cities and burghs, and divide certain burghs into polling districts.

Voters to poll in the district where the property which gives the qualification lies.

Proviso as to certain burghs.

Regulations respecting contested elections.

27. That within three months after the passing of this Act each sheriff shall divide his county into convenient districts for polling, following, as nearly as possible, the boundaries of parishes, baronies, or other known subdivisions, and shall appoint a particular polling place for each such district, which place shall be selected so as to be most accessible to the voters in the district; and such polling places shall in no case be more in number than fifteen for any one county, and shall be so arranged as that no more than six hundred persons or thereabouts shall poll at any election at any one place; and each town clerk shall, in like manner, appoint one polling place in every city, burgh, or town of which he is clerk, in which the number of voters does not exceed six hundred or thereabouts, and shall, whenever the number of registered voters in any such city, burgh, or town shall exceed six hundred or thereabouts, divide the said city, burgh, or town into convenient districts, and appoint a convenient polling place in each such district, so as that no more than about six hundred persons shall poll at any election at any such place; and each sheriff clerk shall within fourteen days after the sheriff has so divided his county into districts for polling, make up a distinct list of the said districts and the polling place appointed in each, and shall cause copies of the said list to be affixed to the doors of all the country parish churches in his county; and each town clerk shall, within the same period, affix lists of the polling place or polling places within his burgh to all the church doors within the same; and every voter shall poll at the polling place of the district within which the premises, or any part of them, in respect of which he claims to vote may be situate, except only where such polling place shall be in an island distant more than ten miles from the mainland of any county, in which case the voters not resident in such island may poll at the polling place for the district in which the county town is included: Provided always, that with respect to the contiguous burghs of Anstruther East, Anstruther West, and Kilrenny, the town clerk of Anstruther East shall appoint one polling place within the said burgh of Anstruther East for the whole of the said three burghs, which place shall be notified in manner herein provided, and all the voters in the said three burghs shall poll at the polling place so appointed; and at any contested election the sheriff shall, if required by any of the candidates, direct two or more booths, or halls, rooms, or other places for polling, to be provided at each polling place; and all polls shall be taken, both at elections for shires and for

cities, burghs, and towns, under the superintendence of the sheriff, or of a substitute or substitutes named by him, which substitutes the sheriff is hereby empowered to name at his own discretion, without observing the forms necessary in the appointment of ordinary substitutes receiving salaries.

28. That writs for the election of members to serve for shires, or for any city, burgh, or town entitled to send a member or members for itself, shall be directed as heretofore to the sheriff of the shire; and where the election is for a district of cities, burghs, or towns, a writ shall be directed to the sheriff, specified in schedule (L), hereto annexed, and shall be proclaimed, as hereinafter directed, at the town specified in the said schedule (L), for each of the said districts respectively; and each sheriff shall endorse on the back of the writ the day on which he received it, [and shall within three days thereafter announce a day or days, which day or days shall (except only in the case of Orkney as hereinafter provided) not be less than ten nor more than sixteen days after that on which the writ was received for the election or elections within his shire, and shall give due intimation thereof by printed or written notices affixed on the doors of all the parish churches (except as hereinafter excepted) within the county, when the election is for a county, and of all the parish churches in the city, burgh, or town, or cities, burghs, or towns, when the election is for a town or district of towns, and also, where he thinks this expedient, by advertisement in the newspaper or newspapers of greatest circulation in the county or district.]^{*}

Writs to be addressed to sheriffs, who shall fix and notify day of election.

29. That on the day named by the sheriff for the election for the shire, the sheriff shall repair to . . . the county town, and shall there publicly proclaim the writ by reading it: Provided always, that the writ for the united counties of Clackmannan and Kinross shall be proclaimed at the town of Dollar; and that the writ for the united counties of Elgin and Nairn shall be proclaimed at the town of Forres; and that the writ for the united counties of Ross and Cromarty shall be proclaimed at the town of Dingwall. . . .

Order of proceedings at elections for counties.

30. That where the election shall be for any city, burgh, or town, or district of cities, burghs, or towns, the sheriff to whom, as hereinbefore directed, the writ shall have been addressed, shall, on the day and hour previously named by him for such election, repair to the . . . town or burgh sending a member by itself, or that town of any district at which, as hereinbefore directed, the writ for the whole

Order of proceedings at elections for cities, burghs, and towns.

* The latter part of this section, which is within brackets, still remains in force as to elections for Kirkwall, Wick, Dornoch, Dingwall, Tain, Cromarty. See Ballot Act, rule 61.

district is to be proclaimed, and shall there publicly proclaim the writ by reading it : Provided always, that in the district including the town of Kirkwall in Orkney the adjournment may be made for any period not exceeding seven free days.

Extension of
time for
return of
writ for the
election of a
member for
Orkney.

31.† And in respect of the remote situation of certain parts of the county of Orkney and Shetland, and the occasional difficulty of communication therewith, be it enacted, That the Sheriff of Orkney, to whom the writ for the election of a member for the said county shall be addressed at Kirkwall shall, within twenty-four hours after receiving the same, issue a precept to the sheriff-substitute in Shetland, fixing a day for the election for the said county, which day shall not be less than twelve nor more than sixteen days after that on which the writ was received, and shall forward or transmit the said precept, with the least possible delay, directly to the said sheriff-substitute in Shetland, who, immediately on receipt thereof, shall announce the day of election by notices on the church doors ; and if on the day of election more candidates than one shall be put in nomination and a poll shall be demanded, the sheriff shall then adjourn the proceedings for a period of not less than ten or more than fourteen days, and shall within twenty-four hours dispatch notice of this adjournment to the sheriff-substitute of Shetland, as in the case above provided for ; and the polling shall commence accordingly at the different polling places in both parts of the county on the day to which the proceedings are adjourned, and shall proceed as hereinafter directed as in other cases of polling.

Returns for
burghs, &c.

34. That where the election is for one city, burgh, or town sending a member or two members by itself, or for a district of towns lying wholly within one shire, the said poll-books shall be transmitted to and the return made by the sheriff of the shire within which such city, burgh, or town, or district shall be situate ; and where the election shall be for a district or set of burghs or towns lying in different shires, the said poll-books shall be severally transmitted in the first instance to the sheriffs of the several shires within which any of the said burghs or towns shall be situate, and thereafter the other sheriffs shall transmit the said poll-books to the sheriff to whom, as herein provided, the writ shall have been directed, by whom the votes shall be summed up, and the result declared, and the return of the person or persons duly elected shall be made, as above, to the clerk of the crown in England.

Persons not
entitled to
vote or to be
elected.

36. That no sheriff shall be entitled, from and after the passing of this Act, to vote at any election for any member of parliament to be holden within the county or combined

† As to this section see Ballot Act, rule 61.

counties of which he shall be sheriff* ; and that no sheriff-substitute, and no sheriff-clerk or deputy sheriff-clerk, shall be entitled, from and after the passing of this Act, to vote or to be elected at any election for a member to serve in parliament for the shire of which he is the sheriff-substitute or sheriff-clerk ; and no town clerk or deputy town clerk shall be entitled to vote or to be elected for the city, burgh, town, or district in which he is such clerk ; and no sheriff-substitute, sheriff-clerk, or town clerk shall, after the passing of this Act, directly or indirectly, act as an agent for any candidate in any matter connected with or preparatory to any election for the county or burgh respectively in which such person shall be respectively sheriff-substitute, sheriff-clerk, or town clerk.

38. That if any sheriff, sheriff-substitute, sheriff-clerk, town clerk, or any person whatsoever shall wilfully contravene or disobey the provisions of this Act, or any of them, with respect to any matter or thing which such sheriff, sheriff-substitute, sheriff-clerk, town clerk, or other person is hereby required to do, he shall for such his offence be liable to be sued in the court of session by any registered voter, candidate, member actually returned, or other party aggrieved, for the penal sum of five hundred pounds ; and the jury before whom such action shall be tried may find their verdict for the full sum of five hundred pounds, or for any less sum which the said jury shall think it just that such party defender should pay to such party pursuer ; and the defender in such action being convicted shall pay such penal sum so awarded, with full costs of suit, to the party who may sue for the same, without prejudice, however, to the right of any party aggrieved by the misconduct of any sheriff as returning officer to recover such damages for a false return as he may be entitled to at common law or by virtue of any statute now in force : Provided always, that every such action shall be raised within four calendar months next after the cause of action has arisen, and that notice in writing shall be given to the defender at least one month before the raising of any such action, signed by the party raising such action, or his agent, and setting forth the place of abode of the party signing the same : Provided also, that any such defender against whom any judgment shall have been recovered in any such action shall be allowed to plead such judgment as a bar to any other action which may be brought against him for the same matter or thing ; and such other action being thereupon dismissed, such defender shall recover his full costs thereof.

Penalty on officers for breach of duty.

40. That the monies which are now in use to be allowed

Certain allowance to sheriff and expenses of

* This enactment being inconsistent with s. 2 of the Ballot Act, (which enacts that in case of equality of votes for any candidates the returning officer is to give the casting vote) is virtually repealed.

booths,
clerks, &c.
to be paid by
candidates.

to the sheriffs in their accounts with the exchequer for executing writs for elections shall continue to be allowed to them on such accounts ; and that all halls, rooms, booths, or other places hired, constructed, or prepared for taking the polls shall be so hired, constructed, or prepared by contract with the candidates, or, if they cannot agree, by the sheriff clerk, at their joint and equal expense : Provided always, that the expense of such hiring or construction at any one polling place for a county shall not exceed the sum of thirty pounds, nor the sum of twenty pounds at any one polling place in any city, burgh, or town ; and the candidates shall further be bound to pay and contribute among them to each poll clerk one guinea per day, and in like manner to contribute and pay a certain fee to each sheriff or sheriff-substitute, for superintending the polls, the amount of which fee shall in no case exceed the sum of three guineas per day for each such sheriff or substitute ; and the candidates, in all cases where a poll has been demanded, shall in like manner be bound to defray the necessary expenses incurred by the sheriff or sheriff-clerks or two clerks in the transmission of precepts, intimations, poll books, or other communications required or enjoined by this Act ; and if any person shall be proposed as a candidate without his consent, the person so proposing him shall be liable to defray his share of all these expenses in like manner as if he had been a candidate himself.

Substitute
may act
where
sheriff under
disability.

42. That when any sheriff who is hereinbefore required to examine and decide on the claims for registration within his county, or to whom any writ for election is directed, shall be incapacitated from acting by sickness or unavoidable absence, one of his ordinary substitutes may act in his stead, provided he holds a substitution specially authorising him to do so : Provided also that if the sheriffs of the counties of Edinburgh, Lanark, Fife, Forfar, Aberdeen, Perth, Ayr, Inverness, Renfrew, or Orkney and Shetland, or any of them, shall, after the passing of this Act, represent to the Lord President of the Court of Session that by reason of the great number of claims of registration presented or likely to be presented in such counties, it will be impracticable for them, without assistance, to dispose of such claims within the period limited by this Act, then and in that case it shall be competent to the said Lord President, being satisfied of the correctness of such representation, and he is hereby required to nominate and appoint one or more other sheriffs or advocates of at least four years' standing to assist in disposing of the said claims within the said counties or any of them ; and all judgments pronounced by the said assistant-sheriffs or advocates shall be liable to be appealed from as if they had been pronounced by the sheriff of the county.

Assistant-
sheriffs, &c.
in certain
counties.

2 & 3 Will. 4, c. 88.

55. That all laws, statutes, and usages now in force respecting elections of members to serve in parliament for any county, city, town, or borough in Ireland shall, save so far as they are respectively repealed or altered by this Act, remain, and they are hereby re-enacted and declared to be in full force.

All election laws to remain in force, save when altered by this Act.

5 & 6 Will. 4, c. 36.

2. That at every contested election of a member or members to serve in parliament for any city, borough, or town, or county of a city or county of a town, the polling shall commence at eight of the clock in the forenoon . . . and the polling shall continue during such one day only; and no poll shall be kept open later than four of the clock in the afternoon.

Period of polling.

7. That such of the freemen of the city of London, being liverymen, as are or shall be entitled to vote in the election of members to serve in any future parliament for the city of London in the Guildhall, and who are or shall be also entitled to vote in such election as owner or tenant of premises in such city, shall be entitled to vote at any such election at the booth or place appointed for the parish, district, or part wherein the property may be situate in respect of which he is so entitled to vote as aforesaid; and that such vote shall be entered in the poll-books either as the vote of a liveryman, or as owner or tenant, as the person so voting shall direct.

Liverymen of London, entitled to vote in respect of premises may vote at the booth for the district where such premises are situate.

8. That where the proceedings at any election shall be interrupted or obstructed by any riot or open violence, whether such proceedings shall consist of the nomination of candidates or of the taking the poll, the sheriff or other returning officer, or the lawful deputy of any returning officer, shall not for such cause terminate the business of such nomination, nor finally close the poll, but shall adjourn the nomination or the taking the poll at the particular polling place or places at which such interruption or obstruction shall have happened until the following day, and, if necessary, shall further adjourn such nomination or poll, as the case may be, until such interruption or obstruction shall have ceased, when the returning officer or his deputy shall again proceed with the business of the nomination or with the taking the poll, as the case may be, at the place or places at which the same respectively may have been interrupted or obstructed; and the day on which the business of the nomination shall have been concluded shall be deemed to

Adjournment of nomination or of poll in case of riot.

have been the day fixed for the election, and the commencement of the poll shall be regulated accordingly ; and any day whereon the poll shall have been so adjourned shall not as to such place or places be reckoned the day of polling at such election, within the meaning of this Act ; and whenever the poll shall have been so adjourned by any deputy of any sheriff or other returning officer, such deputy shall forthwith give notice of such adjournment to the sheriff or returning officer, who shall not finally declare the state of the poll, or make proclamation of the member or members chosen, until the poll so adjourned at such place or places as aforesaid shall have been finally closed, and the poll-books delivered or transmitted to such sheriff or other returning officer, any thing hereinbefore or in any other statute to the contrary notwithstanding : Provided always, that this Act shall not be taken to authorise an adjournment to a Sunday ; but that in every case in which the day to which the adjournment would otherwise be made shall happen to be a Sunday, Good Friday, or Christmas Day, that day or days shall be passed over, and the following shall be the day to which the adjournment shall be made.

Not to extend to Scotland or Ireland.

9. That nothing in this Act shall be construed to apply to Ireland or to Scotland.

5 & 6 Will. 4, c. 78.

Mayor to be returning officer.

57. That the mayor for the time being of every borough shall be in boroughs which return a member or members to serve in parliament other than the town of Berwick-upon-Tweed, and other than cities and towns which are counties of themselves, the returning officer at all such elections, and in case the mayor shall at the time when he shall be required to perform the duties of such returning officer be dead, absent, or otherwise incapable of acting, or in case there shall be no mayor, the council of such borough shall forthwith elect one of the aldermen to be the returning officer for such borough in the place of the mayor, being so dead, absent, or incapable of acting : Provided always, that in case where there shall be more than one mayor within the boundaries of any borough, as the same are or shall be hereafter settled, in so far as respects the election of members to serve in parliament, the mayor of that borough to whom the writ of election shall be directed shall be the returning officer.

5 & 6 Will. 4, c. 78.

Sheriff may alter polling

3. That the sheriff may, if required by or on behalf of any candidate, or, if not so required, if it shall appear to him ex-

pendent, increase or alter the number, situation, or arrangement of the existing polling places and districts, or parts thereof, so that not more than three hundred electors shall be allotted to poll in each booth or compartment for any of the cities, burghs, or towns within his shire; and where an alteration has been made by the sheriff in the number, situation, or arrangement of the polling places in any such city, burgh, or town, the town clerk shall forthwith make up a list of the polling places, and cause copies thereof to be affixed to the doors of all the parish or town churches within such city, burgh, or town.

4. That on the requisition of any candidate, or of any elector being the proposer or seconder of any candidate, the booths or compartments at each polling place shall be so divided and arranged by the sheriff or his substitute duly authorized by him, that not more than one hundred electors shall be allotted to poll in each such booth or compartment: Provided always, that such candidate or elector making such requisition shall pay all expenses incident upon such division or arrangement.

5. That no poll at any election for any city, burgh, or town, or district of cities, burghs, or towns, shall be kept open for more than one day, and that only between the hours of eight in the morning and four in the afternoon: Provided always, that at any time after a poll has been demanded, the poll at any one place may be closed if all the candidates or their agents and the sheriff or his substitute shall agree in so closing it. . . . Provided also that where the proceedings at any election shall be interrupted or obstructed by any riot or open violence, whether such proceedings shall consist of the nomination of candidates or of the taking the poll, the sheriff or his substitute at the place where the riot or open violence has occurred may adjourn the nomination or the taking the poll at the particular polling place or places at which such riot or open violence shall have happened to the following day or some other convenient time, and, if necessary, may repeat such adjournment till such interruption or obstruction shall have ceased, he always giving notice to the sheriff or his substitute who is to make the return, of such adjournment having been made; and the state of the poll shall not be finally declared, nor the result of the election proclaimed, until the poll so interrupted or obstructed shall be closed and transmitted to the sheriff or his substitute who is to make the return.

11. That where a sheriff is necessarily absent from any place where any duty, other than that of acting as a judge of appeal, is required of him by the said recited Act or by this Act, it shall be competent for him to appoint a special substitute to act for him at such place; and in the event of no

districts and parts polling places.

On requisition, sheriff to arrange booths so as not more than 100 electors shall poll in each, the candidate paying the expenses. Polls only to be kept open one day.

Sheriff, in case of necessary absence, may appoint a special substitute.

such special substitution, his ordinary substitute at the place shall be entitled and is hereby required to act in his room ; and if the office of sheriff shall at any time be vacant, by death or resignation, when any of the duties imposed by the said recited Act or by this Act (other than those imposed upon him as a judge of appeal), are required to be performed, the ordinary substitute at the head burgh of the shire, appointed by the former sheriff, shall be entitled and is hereby required to act until a successor to such former sheriff shall be appointed and be in a capacity to act.

2 & 3 Vict., c. 59.

Under-sheriff answerable for sheriff when militia drawn out.

2. That if any sheriff shall be an officer of the militia at any time when the militia of which he is such officer shall be drawn out and embodied for actual service, he shall be discharged from personally performing the office of sheriff while the militia shall remain embodied, and the under-sheriff shall be answerable for the execution of the said office in the name of the high sheriff during the same time, and the security given by the under-sheriff and his pledges to the high sheriff shall stand as security to the Queen, her heirs and successors, and to all persons whatsoever for the due performing his office during such time.

3 & 4 Vict., c. 108.

Returning officer at borough elections in Ireland.

84. That . . . in boroughs which return a member or members to serve in parliament, other than cities and towns which are counties of themselves, the mayor, or in any such borough in which there shall be no mayor, the sheriff of the county in which the whole or the greater part of such borough shall be situate shall be the returning officer at all elections for such members, and in case the mayor shall at the time when it is necessary to execute the powers and duties herein provided with respect to any elections, be dead or absent, or otherwise incapable of acting, the council of such borough shall forthwith elect one of the aldermen to be the returning officer for such borough in the place of the mayor being so dead, absent, or otherwise incapable.

6 Vict., c. 18.

No inquiry at time of election, except as to identity of the voter, and whether

81. That in all elections whatever of a member or members to serve in parliament for any county, riding, parts or division of a county, or for any city or borough in England or Wales, or the town of Berwick-upon-Tweed, no inquiry shall be permitted at the time of polling as to the right of any person to vote, except only as follows ; (that is to say,)

that the returning officer or his respective deputy shall, if he has required on behalf of any candidate, put to any voter at the already time of his tendering his vote, and not afterwards, the following questions, or either of them :—

1. Are you the same person whose name appears as *A. B.* on the register of voters now in force for the county of [or for the riding, parts, or division of the county of], or for the city [or borough] of [as the case may be] ?
2. Have you already voted, either here or elsewhere, at this election for the county of [or for the riding, parts, or division of the county of], or for the city [or borough] of [as the case may be] ?

And if any person shall wilfully make a false answer to either of the questions aforesaid he shall be deemed guilty of a misdemeanor, and shall and may be indicted and punished accordingly ; and the returning officer or his deputy, shall, if required on behalf of any candidate at the time aforesaid, administer an oath to any voter in the following form :

“ You do swear [or affirm, *as the case may be*], That you are the same person whose name appears as *A. B.* on the register of voters now in force for the county of [or for the riding, parts, or division of the county of] or for the city [or borough] of [as the case may be], and that you have not before voted, either here or elsewhere, at the present election for the county of [or for the riding, parts, or division of the county of] or for the city [or borough] of [as the case may be]. So help you God.”

Oath to be taken if required.

82. That, save as aforesaid, it shall not be lawful to require any voter at any election whatever of a member or members to serve in parliament to take any oath or affirmation, either in proof of his freehold, or of his residence, age, or other qualification or right to vote, any law or statute, local or general, to the contrary notwithstanding ; nor to reject any vote tendered at such election by any person whose name shall be upon the register of voters in force for the time being, except by reason of its appearing to the returning officer or his deputy, upon putting such questions as aforesaid, or either of them, that the person so claiming to vote is not the same person whose name appears on such register as aforesaid, or that he had previously voted at the same election, or except by reason of such person refusing to answer the said questions or either of them, or to take the said oath, or make the said affirmation, or to take or make the oath or affirmation against bribery ; and no scrupulous

No other oath to be taken.

No scrutiny
to be al-
lowed.

tiny shall hereafter be allowed by or before any returning officer with regard to any vote given or tendered at any such election ; any law, statute, or usage to the contrary notwithstanding.

Agents may
be appointed
by candi-
dates to
detect per-
sonation at
the time of
polling.

85.* That it shall be lawful for any candidate, at any election of a member or members to serve in parliament for any county, city, or borough, previous to the time fixed for taking the poll at such election, to nominate and appoint an agent or agents on his behalf to attend at each or any of the booths appointed for taking the poll at such election, for the purpose of detecting personation ; and such candidate shall give notice in writing to the returning officer, or his respective deputy, of the name and address of the person or persons so appointed by him to act as agents for such purpose ; and thereupon it shall be lawful for every such agent to attend during the time of polling at the booth or booths for which he shall have been so appointed.

Returning
officer may
order per-
sons charged
with per-
sonation to
be taken
into cus-
tody.

86. That if at the time any person tenders his vote at such election, or after he has voted, and before he leaves the polling booth, any such agent so appointed as aforesaid shall declare to the returning officer, or his respective deputy, presiding therein, that he verily believes, and undertakes to prove, that the said person so voting is not in fact the person in whose name he assumes to vote, or to the like effect, then and in every such case it shall be lawful for the said returning officer, or his said deputy, and he is hereby required, immediately after such person shall have voted, by word of mouth to order any constable or other peace officer to take the said person so voting into his custody, which said order shall be a sufficient warrant and authority to the said constable or peace officer for so doing : Provided always, that nothing herein contained shall be construed or taken to authorise any returning officer, or his deputy, to reject the vote of any person who shall answer in the affirmative the questions authorised by this Act to be put to him at the time of polling, and shall take the oaths or make the affirmations authorised and required of him ; but the said returning officer, or his deputy, shall cause the words " Protested against for personation," to be placed against the vote of the person so charged with personation when entered in the poll book.

Vote not to
be rejected
if questions
answered in
the affirma-
tive.

Persons
charged
with per-
sonation to
be taken be-
fore two
justices.

87. That every such constable or peace officer shall take the person so in his custody, at the earliest convenient time, before some two justices of the peace acting in and for the county, city, or borough within which the said person shall have so voted as aforesaid : Provided always, that in case the attendance of two such justices as aforesaid cannot be procured within the space of three hours after

* ss. 85-89 are to apply to personation under the Ballot Act, 1872. See s. 24, and sch. iii. of that Act, *post*, p. xcix.

the close of the poll on the same day on which such person shall have been so taken into custody, it shall be lawful for the said constable or peace officer, and he is hereby required, at the request of such person so in his custody, to take him before any one justice of the peace acting as aforesaid, and such justice is hereby authorised and required to liberate such person on his entering into a recognizance, with one sufficient surety, conditioned to appear before any two such justices as aforesaid, at a time and place to be specified in such recognizance, to answer the said charge; and if no such justice shall be found within four hours after the closing of the said poll then such person shall forthwith be discharged from custody: Provided also, that if in consequence of the absence of such justices as aforesaid, or for any other cause, the said charge cannot be inquired into within the time aforesaid, it shall be lawful nevertheless for any two such justices as aforesaid to inquire into the same on the next or on some other subsequent day, and, if necessary, to issue their warrant for the apprehension of the person so charged.

Bail to be taken in certain cases.

88. That if on the hearing of the said charge the said two justices shall be satisfied, upon the evidence on oath of not less than two credible witnesses, that the said person so brought before them has knowingly personated and falsely assumed to vote in the name of some other person within the meaning of this Act, and is not in fact the person in whose name he voted, then it shall be lawful for the said two justices to commit the said offender to the gaol of the county, city, or borough within which the offence was committed, to take his trial according to law, and to bind over the witnesses in their respective recognizances, to appear and give evidence on such trial as in the case of other misdemeanors.

If justices are satisfied that the person charged has been guilty of personation, they are to commit him for trial.

89. That if the said justices shall on the hearing of the said charge be satisfied that the said person so charged with personation is really and in truth the person in whose name he voted, and that the charge of personation has been made against him without reasonable or just cause, or if the agent so declaring as aforesaid, or some one on his behalf, shall not appear to support such charge before the said justices, then it shall be lawful for the said justices, and they are hereby required to make an order in writing under their hands, on the said agent so declaring as aforesaid, to pay to the said person so falsely charged, if he shall consent to accept the same, any sum not exceeding the sum of ten pounds nor less than five pounds, by way of damages and costs; and if the said sum shall not be paid within twenty-four hours after such order shall have been made, then the same shall be levied, by warrant under the hand and seal of any justice of the peace acting

If justices are satisfied that the charge is unfounded, they are to order compensation.

as aforesaid, by distress and sale of the goods and chattels of the said agent; and in case no sufficient goods or chattels of the said agent can be found on which such levy can be made, then the same shall be levied in like manner on the goods and chattels of the candidate by whom such agent was so appointed to act; and in case the said sum shall not be paid or levied in the manner aforesaid, then it shall be lawful for the said person to whom the said sum of money was so ordered to be paid to recover the same from the said agent or candidate, with full costs of suit, in an action of debt to be brought in any one of Her Majesty's superior courts of record at Westminster: Provided always, that if the person so falsely charged shall have declared to the said justices his consent to accept such sum as aforesaid by way of damages and costs, and if the whole amount of the sum so ordered to be paid shall have been paid or tendered to such person, in every such case, but not otherwise, the said agent, candidate, and every other person shall be released from all actions or other proceedings, civil or criminal, for or in respect of the said charge and apprehension.

If party
falsely
charged
accepts com-
pensation,
no action to
be brought.

Sheriffs and
returning
officers to
provide con-
stables.

Liverymen
of London to
poll in the
Guildhall.

For pro-
viding for
the safe
custody of
poll-books.

90.* That it shall and may be lawful for the high sheriff of any county, and for the mayor or returning officer of any city or borough, and he and they are hereby required for the purposes aforesaid, to provide a sufficient attendance of constables or peace officers in each booth at the different polling places within their respective counties, cities, or boroughs.

92. That in the city of London the returning officer or officers shall take the poll or votes of such freemen of the said city, being liverymen of the several companies, as are entitled to vote at such election, in the Guildhall of the said city, and shall not be required to provide for them any booth or compartment, but shall take one poll for the whole number of such liverymen at the same place.

93.† That at every contested election of a member or members to serve in parliament for any county, riding, parts, or division of a county, or for any city or borough in England or Wales, or for the town of Berwick-upon-Tweed, the sheriff, under sheriff, or returning officer, after having declared the state of the poll, and made proclamation of the member or members chosen to serve in parliament in the manner provided for by the said hereinbefore in part recited Act, shall forthwith enclose and seal up the several poll books and tender the same to each of the candi-

* See 17 & 18 Vict. c. 102, s. 8, *post*, p. liv, which enacts that no one is to be made a constable without his consent.

† By Ballot Act, rule 38, *post*, p. cix, the ballot papers and all documents relating to the election are now to be forwarded in the same manner in which poll-books were formerly forwarded.

dates, to be sealed by them respectively; and in case any candidate shall neglect or refuse to seal the same, the sheriff, under sheriff, or returning officer shall thereupon indorse on one of the said poll books the fact of such neglect or refusal; and every such sheriff, under sheriff, or other returning officer shall, by himself or his agent, as soon as possible after such proclamation as aforesaid, deliver the same poll books, so sealed as aforesaid, to the Clerk of the Crown in the High Court of Chancery, or his deputy, or deliver the same, directed to the said clerk of the crown, to the postmaster or deputy postmaster of the city, town, or place wherein such proclamation shall have been made as aforesaid, who on receipt thereof shall give an acknowledgment in writing of such receipt to such sheriff, under sheriff, or returning officer, expressing therein the time of such delivery, and shall keep a duplicate of such acknowledgment, signed by such sheriff, under sheriff, or returning officer; and the said postmaster or deputy postmaster shall despatch all such poll books, so sealed and directed as aforesaid, by the first post or mail after the receipt thereof, to the General Post-Office in London; and the postmaster or postmasters general are hereby directed immediately on receipt of such poll books, to convey the same to the crown office, and to deliver the same there, so sealed as aforesaid, to the said clerk of the crown or his deputy; and the said clerk of the crown or his deputy is hereby required to give to such postmaster or postmasters general, sheriff, under sheriff, returning officer, or agent delivering the same, a memorandum in writing, acknowledging the receipt of such poll books, and setting forth the day and hour when the same were delivered at the crown office; and the said clerk of the crown or his deputy is hereby required, immediately on receipt of such poll book, to register the same in the books of the said crown office, and to indorse thereon the day and hour upon which he received the same; and every such sheriff, under sheriff, or returning officer is hereby required, at the time of transmitting such poll books as aforesaid through the post-office, to address and forward a letter by the same post or mail to the said clerk of the crown, informing him of such transmission, and giving the number and description of such poll books so transmitted.

97. That every sheriff, under sheriff, clerk of the peace, Partes wil- town clerk, secondary returning officer, clerk of the crown, fully contra- postmaster, overseer, or other person or public officer, vening the required by this Act to do any matter or thing, shall for Act liable to every wilful misfeasance, or wilful act of commission or debt. omission contrary to this Act, forfeit to any party aggrieved the penal sum of one hundred pounds, or such less sum as the jury before whom may be tried any action to be brought for the recovery of the before-mentioned sum

shall be considered just to be paid to such party, to be recovered by such party, with full costs of suit, by action for debt in any of Her Majesty's superior courts at Westminster: Provided always, that nothing herein contained shall be construed to supersede any remedy or action against any returning officer according to any law now in force.

"Returning officer."

101. The words "returning officer" shall apply to every person or persons to whom by virtue of his or their office, under any law, custom, or statute, the execution of any writ or precept doth or shall belong for the election of a member or members to serve in parliament, by whatever name or title such person or persons may be called.

12 & 13 Vict. c. 109.

Writs, &c., issued out of the petty bag office to be sealed with the chancery common law seal.

14. THAT all rules and orders issued out of the petty bag office, and all such writs, records, instruments, documents, proceedings, and writings as are or have been usually issued or delivered out of the petty bag office, and made under or sealed with the great seal, except the *congé d'elire*, royal assent, patent of assistance, and writs of restitution of temporalities on the election of an archbishop or bishop, special commissions of inquiry, writs of mittimus to the Lord Chancellor of England, exemptions and writs of summons and writs of election issued on the calling of a new parliament shall be made under or sealed or stamped with the said chancery common law seal for the time being. . . .

13 & 14 Vict., c. 68.

Counties to be divided into districts for polling, according to the schedule to this Act.

2. THAT the several counties in Ireland as mentioned in the schedule (A.) to this Act annexed, shall from and after the said fifteenth day of March in the year one thousand eight hundred and fifty-one be divided into districts for polling, according to the arrangements specified in the said schedule; and that in each such district the poll shall be taken in the town or place specified in the said schedule, and that each polling district shall include the several baronies or divisions connected with the name of the same polling place in the said schedule; and each such district shall, for the purposes of this Act, be called after the name of such polling place: Provided always, that so far as may be necessary for the purposes of registration of electors under an Act of the present session, to amend the laws which regulate the qualification and registration of parliamentary voters in Ireland, and to

alter the law for rating immediate lessors of premises to the poor rate in certain boroughs, and not otherwise, such division as aforesaid shall take effect from the ninth day of September in the year one thousand eight hundred and fifty.

5. That each of the cities, towns, and boroughs in Ireland mentioned in the schedule (B.) to this Act annexed * shall from and after the fifteenth day of March in the year one thousand eight hundred and fifty-one be divided into polling districts, and that each of the wards into which the said cities, towns, and boroughs shall have respectively been divided for municipal purposes under the provisions of the Act for the regulation of municipal corporations in Ireland, or any Act amending the same, shall be a separate polling district.

6. That the clerk of the peace of or acting in or for each of the said cities, towns, or boroughs mentioned in the said schedule (B.) shall before the fifteenth day of March in the year one thousand eight hundred and fifty-one cause the list of voters for such city, town, or borough, duly signed by the assistant barrister, chairman, or revising barrister, upon the revision of the same, to be divided, arranged, and printed in the book of the register of voters for such city, town, or borough in manner following: (that is to say,) the names of all persons appearing upon the said list as resident freemen shall be placed upon a separate list to be entitled "the list of resident freemen," and shall be arranged therein in strict alphabetical order, according to the first, second, and other letters of their surnames, and the names in such lists of freemen shall be numbered consecutively beginning with number one, and the names of all persons appearing on the said list of voters, signed as aforesaid, as qualified in respect of any property qualification, or as occupiers of any lands, tenements, or hereditaments, shall be divided into lists for the respective wards, according to the number and names of the municipal wards into which each such city, town, or borough shall have been divided under the said Act for the regulation of municipal corporations in Ireland, or any Act amending the same; and each of such ward lists shall be headed with the name of the ward, and shall contain the names of all persons appearing upon the said list of voters signed as aforesaid as qualified in respect of any property situate within such ward, or as occupiers of any lands, tenements, or hereditaments situate within such ward; and in each such ward list the names of the persons appearing thereon shall be arranged in strict alphabetical order according to the first, second, and other letters of the surnames, and the names in each such ward list shall be numbered consecutively, beginning with number one.

* These towns are Belfast, Cork, Dublin, Limerick, and Waterford.

Electors in respect of property not situate in any ward to be inserted in list of adjoining ward.

7. That in the case of any persons appearing on the said list of voters signed as aforesaid for any such city, town, or borough mentioned in the said schedule (B.) as qualified in respect of any property qualification, or as occupiers of any lands, tenements, or hereditaments, not situate within the limits of any of such wards, such clerk of the peace shall insert the name of each of such last-mentioned persons in the list for the ward which the said property, or the said lands, tenements, or hereditaments in respect of which he may be so qualified, shall most nearly adjoin; or in case the said property, lands, tenements, or hereditaments in respect of which any person may be qualified shall be situate in more than one ward, or partly within one or more ward or wards and partly without the limits of any ward, the clerk of the peace shall insert the name of any such last-mentioned person in the list of such one ward in which such property, lands, tenements, or hereditaments shall be partly situate, as such clerk of the peace shall think fit.

Electors for such cities and towns, &c. hereafter to be arranged and printed in like manner.

8. That the names of all persons who shall at any time after the said fifteenth day of March one thousand eight hundred and fifty-one be on the list of voters signed as aforesaid in each year for any such city, town, or borough mentioned in the said schedule (B.) shall be divided, arranged, and printed by the said clerk of the peace in manner hereinbefore specified.

Booths at which freemen and other voters are to give their votes

9. That at every contested election for any such city, town, or borough mentioned in the said schedule (B.) which shall take place after the fifteenth day of March in the year one thousand eight hundred and fifty-one the persons on the registrar and entitled to vote thereat as resident freemen shall (save as hereinafter mentioned) vote at some booth or compartment to be erected or provided at or near the place at which the elections for such city, town, are now usually holden, and not elsewhere; and all persons on the register and entitled to vote in respect of any property qualification, or as occupiers of any lands, tenements, or hereditaments, shall vote at some booths or compartments to be erected or provided within the ward upon the list of which their names shall appear, and not elsewhere.

At elections for cities and towns, commencement and continuance of poll for one day only

15.* That at every such contested election for any city, town, or borough in Ireland, whether the same be mentioned in said schedule (B.) or not, which shall take place after the said fifteenth day of March one thousand eight hundred and fifty-one, the polling shall commence at eight of the clock of the forenoon of the day next but one after the day fixed for the election; and such polling shall continue for such one day only, and no poll shall be kept open longer than five of the clock in the afternoon of such day,

* By the Ballot Act so much of this section is repealed as prescribes the interval between the election and the polling.

any statute to the contrary notwithstanding : Provided always, that when such day next but one after the day fixed for the election shall be Sunday, Good Friday, or Christmas Day, then in case it be Sunday the poll shall be on the Monday next following, and in case it be Good Friday then on the Saturday next following, and in case it be Christmas Day then on the next following day if the same shall not be Sunday, and if it be Sunday then on the next following Monday.

17. That in case any election shall take place for any county, city, town, or borough in Ireland before or on the said fifteenth day of March one thousand eight hundred and fifty-one, the poll and proceedings thereat shall be taken in the same manner as if this Act had not passed ; and that nothing in this Act contained shall be construed to affect or apply to the Borough of the University of Dublin.

18. That nothing in this Act contained shall prevent any sheriff or other returning officer, or the lawful deputy of any sheriff or returning officer, from closing the poll previous to the expiration of the time fixed by this Act in any case where the same might have been lawfully closed before the passing of this Act ; and that where the proceedings at any election after the fifteenth day of March one thousand eight hundred and fifty-one (whether such proceedings shall consist of the nomination of a candidate or candidates or of the taking of the poll) shall be interrupted or obstructed by any riot or open violence at or near the place of election or a polling place, or shall be interrupted or obstructed by any riot or open violence taking place elsewhere by the violent or forcible prevention, obstruction, or interruption of voters proceeding on their way to such election or polling place (such last-mentioned prevention, obstruction, or interruption of voters proceeding on their way as aforesaid being shown by affidavit), the sheriff or other returning officer, or the lawful deputy of any sheriff or returning officer, shall not for such cause terminate the business of such nomination, nor finally close the poll, but shall adjourn the nomination or the taking of the poll at the particular polling place or places at or near to which or on the way to which such interruption or obstruction shall have happened until the following day, and, if necessary, shall further adjourn such nomination or poll, as the case may be, until such interruption or obstruction shall have ceased, when the sheriff or returning officer or his deputy shall again proceed with the business of the nomination or with the taking the poll, as the case may be, at the place or places at or near to which or on the way to which the same respectively may have been interrupted or obstructed ; and the day on which the business of the nomination shall have been concluded shall be deemed to have been the day

Elections on or before 15th March, 1851, to be taken as if Act had not passed. University of Dublin not to be affected.

Poll may be closed in certain cases as heretofore. Proceedings in case of riot.

fixed for the election, and the commencement of the poll shall be regulated accordingly; and any day whereon the poll shall have been so adjourned shall not, as to such place or places, be reckoned the day of polling at such election within the meaning of this Act; and whenever the poll shall have been so adjourned by any deputy of any sheriff or other returning officer, such deputy shall forthwith give notice of such adjournment to the sheriff or returning officer, who shall not finally declare the state of the poll, or make proclamation of the member or members chosen, until the poll so adjourned at such place or places as aforesaid shall have been finally closed, and the poll books delivered or transmitted to such sheriff or other returning officer, anything hereinbefore or in any other statute to the contrary notwithstanding: Provided always, that this Act shall not be taken to authorise an adjournment to a Sunday, but that in every case in which the day to which the adjournment would otherwise be made shall happen to be a Sunday, Good Friday, or Christmas Day, that day or days shall be passed over, and the following shall be the day to which the adjournment shall be made.

Expense of
booths.

19. That all booths erected or provided for taking the polls at any such election shall be erected or provided by the sheriff or other returning officer at the joint expense of the candidates, except in the case when, at the election for a county, city, town, or borough, such requisition for additional booths as hereinbefore provided for shall have been made; subject, however, to the limitation hereinafter contained; (that is to say) that the expense to be incurred for the booth or each of the booths at the principal place of election, or at any of the polling places for any county, shall not exceed the sum of three pounds if in a public building, and shall not exceed the sum of five pounds if not in a public building; and that the expenses to be incurred for any booth or compartment in any city, town, or borough, shall not exceed the sum of three pounds if in a public building, and shall not exceed the sum of five pounds if not in a public building: Provided always, that if any candidate shall be proposed without his consent, the person proposing him shall be liable for his share of the expenses as if he had been a candidate; Provided also, that the sheriff or other returning officer may, if he think fit, instead of erecting such booth or booths as aforesaid, hire any houses or other buildings for the purpose of taking the poll therein; subject, however, to the limitations as to the expense hereinbefore contained.

Payment of
assessor.

21. That no candidate shall be liable to pay or contribute to the payment of the fee of any assessor appointed by the sheriff or other returning officer.

13 & 14 Vict., c. 69.

88. THAT in all elections whatever of a member or members to serve in parliament for any county, or for any city, town, or borough, in Ireland, holden after the fifteenth day of March one thousand eight hundred and fifty one, no inquiry shall be permitted at the time of polling as to the right of any person to vote, nor any objection thereto made or received by any returning officer or his deputy, except only as follows: (that is to say) that the returning officer or his respective deputy shall, if required on behalf of any candidate, put to any voter at the time of his tendering his vote, and not afterwards, the following questions, or either of them:—

1. "Are you the same person whose name appears as *A. B.* on the register of voters now in force for the county of [or for the city or town or borough of *as the case may be*]?"
2. "Have you already voted, either here or elsewhere, at this election for the county of [or for the city or town or borough of *as the case may be*]?"

And if any person shall wilfully make a false answer to either of the questions aforesaid, he shall be deemed guilty of a misdemeanor, and shall and may be indicted and punished accordingly; and the returning officer or his deputy, or a commissioner or commissioners (whom the returning officer is hereby authorised, if he shall think fit, to appoint for that purpose), shall, if required on behalf of any candidate at the time aforesaid, administer an oath, or (in case of a Quaker, Moravian, or Separatist) an affirmation, to any voter, in the following form:

"You do swear [or affirm, *as the case may be*] that you are the same person whose name appears as *A. B.* on the register of voters now in force for the county of [or for the city or town or borough of *as the case may be*], and that you have not before voted, either here or elsewhere, at the present election for the county of [or for the city or town or borough of *as the case may be*],

"So help you God."

89. That, save as aforesaid, it shall not be lawful to require any voter at any election whatever of a member or members to serve in parliament [holden after the fifteenth day of March, one thousand eight hundred and fifty one,*] to take any note or affirmation, either in proof of his freehold, occupation, or of his residence, age, or other qualification or right to vote, or of his qualification continuing, or of his not owing any cesses, rates, or taxes whatsoever, any law or statute, local or general, to the contrary notwithstanding.

No other oath to be taken.

* Repealed by Statute Law Revision Act 1878.

ing, nor to reject any vote tendered at such election by any person whose name shall be upon the register of voters in force for the time being, except by reason of its appearing to the returning officer or his deputy, upon putting such questions as aforesaid or either of them, that the person so claiming to vote is not the same person whose name appears on such register as aforesaid, or that he had previously voted at the same election, or except by reason of such person refusing to answer the said questions or either of them, or to take the said oath or to make the said affirmation, or to take or make the oath or affirmation against bribery; and no scrutiny shall hereafter be allowed by or before any returning officer with regard to any vote given or tendered at any such election, any law, statute, or usage to the contrary notwithstanding.

Persons personating voters guilty of a misdemeanor

90. That if at any election of a member or members to serve in parliament for any county, city, town, or borough in Ireland holden at any time after the fifteenth day of March one thousand eight hundred and fifty-one any person shall knowingly personate and falsely assume to vote in the name of any other person registered under the provisions of the said recited Act to amend the representation of the people of Ireland, or whose name appears on the register of voters then in force for any such county, city, town, or borough, whether such other person shall then be living or dead, or if the name of the said other person be the name of a fictitious person, every such person shall be guilty of a misdemeanor, and on being convicted thereof shall be punished by imprisonment for a term not exceeding two years, together with hard labour.

Aiders and abettors punishable as principals.

Agents to detect personation may be appointed.

91. That every person who shall aid, abet, counsel, or procure the commission of any such last-mentioned misdemeanor shall be liable to be indicted and punished as a principal offender.

92.* And for the more effectual detection of the personation of electors at elections, be it enacted, that it shall be lawful for any candidate at any election of a member or members to serve in parliament for any county, city, town, or borough [holden after the fifteenth day of March one thousand eight hundred and fifty-one,]† previous to the time fixed for taking the poll at such election, to nominate and appoint an agent or agents in his behalf, to attend at each or any of the booths appointed for taking the poll at such election, for the purpose of detecting personation; and such candidate shall give notice in writing to the returning officer or his respective deputy of the name and address of the person or persons so appointed by him to act as agents for such

* ss. 92—95 are to apply to personation under the Ballot Act, 1872. See s. 24 and sch. iii. of that Act, *post*, p. xcix.

† Repealed by Statute Law Revision Act. 1878.

purpose, and thereupon it shall be lawful for every such agent to attend, during the time of polling, at the booth or booths for which he shall have been so appointed.

92. That if at the time any person tenders his vote at such election, or after he has voted, and before he leaves the polling booth, any such agent so appointed as aforesaid shall declare to the returning officer or his respective deputy presiding therein, that he verily believes and undertakes to prove, that the said person so voting is not in fact the person in whose name he assumes to vote, or to the like effect, then and in every such case it shall be lawful for the said returning officer or his said deputy, and he is hereby required, immediately after such person shall have voted, by word of mouth to order any constable or other peace officer to take the said person so voting into his custody, which said order shall be a sufficient warrant and authority to the said constable or peace officer for so doing: Provided always, that nothing herein contained shall be construed or taken to authorise any returning officer or his deputy to reject the vote of any person who shall answer in the affirmative the questions authorised by this Act to be put to him at the time of polling, and shall take the oaths or make the affirmations authorised and required of him, but the said returning officer or his deputy shall cause the words "protested against for personation" to be placed against the vote of the person so charged with personation when entered in the poll book.

Persons charged with personation of voters may be taken into custody;

94. That every such constable or peace officer shall take the person so in his custody, at the earliest convenient time, before some two justices of the peace acting in and for the county, city, town, or borough within which the said person shall have so voted as aforesaid: Provided always, that in case the attendance of two such justices as aforesaid cannot be procured within the space of three hours after the close of the poll on the same day on which such person shall have been so taken into custody, it shall be lawful for the said constable or peace officer, and he is hereby required, at the request of such person so in his custody, to take him before any one justice of the peace acting as aforesaid; and such justice is hereby authorised and required to liberate such person, on his entering into a recognizance, with one sufficient surety, conditioned to appear before any two such justices as aforesaid, at a time and place to be specified in such recognizance, to answer the said charge; and if no such justice shall be found within four hours after the closing of the said poll, then such person shall forthwith be discharged from custody: Provided also, that if, in consequence of the absence of such justices as aforesaid, or from any other cause, the said charge cannot be inquired into within the time aforesaid, it shall be lawful nevertheless for any two such justices

and brought before two justices.

as aforesaid to inquire into the same on the next or on some other subsequent day, and, if necessary, to issue their warrant for the apprehension of the person so charged.

Offenders
may be com-
mitted for
trial.

95. That if on the hearing of the said charge the said two justices shall be satisfied, upon the evidence on oath of not less than two credible witnesses, that the said person so brought before them has knowingly personated and falsely assumed to vote in the name of some other person within the meaning of this Act, and is not in fact the person in whose name he voted, then it shall be lawful for the said two justices to commit the said offender to the gaol of the county, city, town, or borough within which the offence was committed, to take his trial according to law, and to bind over the witnesses in their respective recognizances to appear and give evidence on such trial, as in the case of other misdemeanors.

Justices
may award
compensa-
tion to per-
sons un-
justly
charged

96. That if the said justices shall, on the hearing of the said charge, be satisfied that the said person so charged with personation is really and in truth the person in whose name he voted, and that the charge of personation has been made against him without reasonable or just cause, or if the agent so declaring as aforesaid, or some one on his behalf, shall not appear to support such charge before the said justices, then it shall be lawful for the said justices, and they are hereby required to make an order in writing under their hands on the said agent so declaring as aforesaid to pay to the said person so falsely charged, if he shall consent to accept the same, any sum not exceeding the sum of ten pounds nor less than five pounds by way of damages and costs; and if the said sum shall not be paid within twenty-four hours after such order shall have been made, then the same shall be levied, by warrant under the hand and seal of any justice of the peace acting as aforesaid by distress and sale of the goods and chattels of the said agent; and in case no sufficient goods or chattels of the said agent can be found on which such levy can be made, then the same shall be levied in like manner on the goods and chattels of the candidate by whom such agent was so appointed to act; and in case the said sum shall not be paid or levied in the manner aforesaid, then it shall be lawful for the said person to whom the said sum of money was so ordered to be paid to recover the same from the said agent or candidate, by civil bill, or, with full costs of suit, in an action of debt to be brought in any one of Her Majesty's superior courts of record at Dublin: Provided always, that if the person so falsely charged shall have declared to the said justices his consent to accept such sum as aforesaid by way of damages and costs, and if the whole amount of the sum so ordered to be paid shall have been paid or tendered to such person, in every such case,

but not otherwise, the said agent, candidate, and every other person shall be released from all actions or other proceedings, civil or criminal, for or in respect of the said charge and apprehension.

97. That it shall and may be lawful for the high sheriff of any county, and for the mayor or returning officer of any city, town, or borough, and he and they are hereby required, for the purposes aforesaid, to provide a sufficient attendance of constables or peace officers in each booth at the different polling places within their respective counties, cities, towns, or boroughs.

Power to provide a sufficient attendance of constables at polling places.

15 & 16 Vict., c. 23.

1. THAT so often as Her Majesty shall by her royal proclamation appoint a time for the first meeting of the parliament of the united kingdom of Great Britain and Ireland, after dissolution thereof, the time so to be appointed may be at any time not less than thirty-five days after such proclamation, 5 Anne, c. 8, or 7 & 8 Will. 3, c. 25, or any other law or usage to the contrary notwithstanding.

Parliament to meet not less than 35 days after date of proclamation.

16 Vict., c. 15.

2. At every contested election for any county . . . the polling shall continue for one day only, and the poll shall commence at eight o'clock in the morning and be kept open until five in the afternoon of the same day.

Regulating time for polling at county elections.

3. The provisions concerning the adjournment of the poll in cases of riot and violence, and other the provisions of s. 70 of 2 & 3 Will. 4, c. 45 shall be and remain applicable to every such contested election as aforesaid as if the said section were re-enacted in this Act, the words "the day of polling" being substituted therein for the words "one of the two days of polling."

2 & 3 Will. 4, c. 45, s. 70, to remain applicable to elections.

16 Vict., c. 28.

2. It shall be lawful for each sheriff, with the consent of Her Majesty's advocate for Scotland for the time being, from time to time hereafter to increase or otherwise alter the number, situation, or arrangement of the existing polling places and districts, or parts thereof, in his county, so that no more than three hundred electors shall be allowed to poll at any such election as aforesaid at any one place: Provided always, that no such increase or alteration as aforesaid shall be made until notice thereof shall have been publicly given by advertisement for six weeks successively in the North British Advertiser and the Edinburgh Gazette, and in the

Power to sheriff, with consent of Lord Advocate, to increase or alter number and arrangement of polling places so that not more than 300 electors

shall poll at one place.

No alteration to take place until notice shall be advertised.

Notice of objections by ten inhabitant electors.

Inhabitant electors being not less than 10, may petition for increase or other alteration of polling places.

Sheriff if requested shall direct more booths

several newspapers published within the county in which the said increase or alteration is proposed to be made; and in case any of the inhabitants, not less than ten in number, being registered voters for such county, shall be desirous of opposing such increase or alteration as aforesaid, it shall be lawful for them, at any time not later than one week from the publication of the last advertisement, to lodge with the sheriff clerk of the county a written notice, signed by such inhabitants as aforesaid, being not less than ten in number, stating their objections to such increase or alteration, or any suggestions they may wish to offer for the purpose of obtaining a different arrangement of polling places or districts from that proposed in such advertisement as aforesaid, and the sheriff clerk shall thereupon transmit the same to Her Majesty's advocate for Scotland for the time being, who shall, within fifteen days from the receipt thereof, notify his decision thereon to the sheriff; and thereupon, if the said decision shall sanction the original or any increase or other alteration in the number, situation, or arrangement of the existing polling places or districts, the sheriff clerk shall forthwith, or, in the event of no such notice of objection as aforesaid being given, shall at the expiration of one week from the date of the last advertisement as aforesaid, make a distinct list of such new polling places and districts as appointed, and shall cause copies of the said lists to be affixed to the doors of all the parish churches in his county.

3. Provided always, that in case any of the inhabitants of a county, being registered voters for the same, shall be at any time dissatisfied with the then existing number or position of polling places or districts, it shall be lawful for any of them to present to the sheriff a petition signed by not less than ten such inhabitants as aforesaid, representing that the number of polling places or districts is insufficient or excessive (as the case may be), or that their situation and arrangement is inconvenient, and praying that the place or places mentioned in such petition may be a polling place or places for that county, or that the alterations or other changes mentioned in such petition may be made in the number, situation, or arrangement of the then existing polling places or districts; and on the receipt of such petition the sheriff shall, with the consent of Her Majesty's advocate for Scotland, proceed therein in the same way as hereinbefore provided, and as though the increase or alterations in the said petition mentioned had been originally proposed by the sheriff.

4. At any contested election the sheriff shall, if required by any of the candidates, on or before the day of nomination, direct two or more booths, compartments, halls, rooms,

or other places for polling, to be provided at each polling place: Provided always, that no poll at any such election shall be taken at any inn, hotel, tavern, public house, or other premises licensed for the sale of beer, wine, or spirits, or in any booth, hall, room, or other place directly communicating therewith, unless by consent of all the candidates expressed in writing.

to be provided.
No poll to be taken at an inn, except by consent.

5. That every county voter (except as hereinafter provided) shall poll at the polling place of the district within which the premises, or any part of them, in respect of which he claims to vote, may be situate; provided that nothing herein contained shall be held to repeal or alter the ninth section of the seventy-eighth chapter of the statute passed in the fifth and sixth years of his said Majesty, respecting freeholders in counties.

Where voters shall poll.

6. Any county voter, not being a freeholder, and not resident in the district containing the premises in respect of which he claims to vote, may make application, in person or by writing, to the sheriff, at the registration court of the county, to be entitled to poll at the polling place nearest to his residence; and the sheriff, on being satisfied of the truth of the statements of such voter, shall insert in the list against the name of the voter making such application the name of the polling place at which such person shall be registered to vote; and such voter shall thereafter be entitled to vote at such polling place, and shall not be at liberty to poll at any other polling place for the same county.

Voters may claim to vote in another district in certain cases.

7. Where the polling place for a district containing the premises in respect of which any voter claims to vote shall be in an island distant more than ten miles from the mainland of the county, such voter, not being resident in the island, may poll at the polling place for the district in which the county town is included.

Non-resident voters, with island qualifications, may vote at the county town.

8. With respect to section thirty-three of the said first-mentioned statute, be it enacted, that where the sheriff shall not have received the poll-books transmitted from any island within the time therein limited for the opening thereof, the sheriff may adjourn the court for the declaration of the state and result of the poll from day to day, omitting Sunday, and shall either at the first of such adjourned courts after the receipt of such poll-books, or at the expiration of twelve days from the first court so adjourned (which ever shall happen first) proceed to declare the poll, and make proclamation and a return in the manner therein mentioned.

Declaration of the poll in certain cases.

9. No poll at any election for any county shall be kept open for more than one day, and that only between the hours of eight in the morning and four in the afternoon: Provided always, that at any time after a poll has been demanded the poll at any one place may be closed, if all

Poll to be kept open only one day.

Order and
manner of
polling.

the candidates or their agents and the sheriff or his substitute shall agree in so closing it : Provided also, that when the proceedings at any election shall be interrupted or obstructed by any riot or open violence, whether such proceedings shall consist of the nomination of candidates, or of the taking the poll, the sheriff or his substitute at the place where the riot or open violence has occurred may adjourn the nomination or the taking the poll at the particular polling place or places at which such riot or open violence shall have happened to the following day or some other convenient time, and if necessary may repeat such adjournment till such interruption or obstruction shall have ceased, he always giving notice to the sheriff or his substitute who is to make the return of such adjournment having been made ; and the state of the poll shall not be finally declared, nor the result of the election proclaimed, until the poll so interrupted or obstructed shall be closed, and transmitted to the sheriff or his substitute who is to make the return.

16 & 17 Vict., c. 68.

Writes to the
sheriffs of
counties to
require them
to make
Election for
their Counties
only.

Writes for the
Election in
the Universities of Oxford
and Cambridge,
and in Boroughs, to be
directed to the returning
Officers thereof.

Writes, &c. to
be made conformable to
this Act.

Polling at
the Universities to continue for
five days
only.

1 THE writ for any election hereafter to be directed to the sheriff of any county in England or Wales (other than the county of a city or of a town) shall require such sheriff to cause election to be made of a knight or knights to serve in parliament for such county, and for any riding, parts, or division thereof only, and not further or otherwise ; the writ for making any election of a member or members to serve in parliament for the Universities of Oxford and Cambridge, and for every borough, town corporate, port, or place, returning members to serve in parliament in England and Wales, shall hereafter be directed to the vice-chancellors of the said universities, and to the returning officers of such boroughs, towns corporate, ports, and places respectively, and such vice-chancellors and returning officers shall thereupon in due course of law proceed to election, and after such election certify the same, together with the writ, according to the directions thereof ; all such writs hereafter to be issued, and all mandates, precepts, instruments, proceedings, and notices consequent upon such writs, shall be and the same are hereby authorised to be framed and expressed in such manner and form as may be necessary for carrying the provisions of this Act into effect.

4. At any election of a member or members to serve in parliament for either of the Universities of Oxford and Cambridge the polling shall not continue for more than five days at the most, Sunday, Christmas Day, Good Friday, and Ascension Day being excluded.

5. At every such election the vice-chancellor shall have power to appoint any number of polling places not exceeding three, in addition to the house of convocation or senate house, and to direct at which of such polling places the members of convocation and of the senate according to their colleges shall vote, and also to appoint any number of pro-vice-chancellors, any one of whom may receive the votes and decide upon all questions during the absence of such vice-chancellor; and such vice-chancellor shall have power to appoint any number of poll clerks and other officers, by one or more of whom the votes shall be entered in such number of poll-books as shall be judged necessary by such vice-chancellor.

Vice-Chancellors to appoint additional polling places, and appoint pro-vice-chancellors, &c. for conducting the poll.

6. No poll at any election for members of parliament in England and Wales shall be taken at any inn, hotel, tavern, public house, or other premises licensed for the sale of beer, wine, or spirits, or in any booth, hall, room, or other place directly communicating therewith, unless by consent of all the candidates expressed in writing.

Polls not to be taken at inns, &c. without consent of all the candidates.

17 & 18 Vict., c. 57.

EVERY writ for making any election of a member for any borough, city, or town, shall be directed to the returning officer of the said borough or his deputy, and in their absence to the sheriff of the county in which the said city, borough, or town is situate; and in all cases whatever, whenever there shall be, either from temporary vacancy or from some other cause, no person duly qualified in any borough, city, or town, to perform the duties of a returning officer for the same, the sheriff of the county in which such borough, city, or town is situate, shall be charged with the execution of the said writ, and shall execute the same, and in all respects perform the duties of, and incident to, returning officer: Provided always, that it shall not be lawful for the said sheriff to receive or execute the writ, except when there shall be no person within the said borough, city, or town, legally qualified and competent as returning officer to execute the same.

Sheriff to be returning officer in borough where the office of returning officer shall be vacant.

17 & 18 Vict., c. 102.

The Corrupt Practices Prevention Act, 1854.

2. THE following persons shall be deemed guilty of bribery, and shall be punished accordingly:

Bribery defined.

I. Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, give, lend, or agree to give or lend, or shall offer, promise, or promise to procure, or to endeavour to procure any

money or valuable consideration, to or for any voter, or to or for any person, on behalf of any voter, or to or for any other person in order to induce any voter to vote, to refrain from voting, or shall corruptly do any such act as aforesaid, on account of such voter having voted or refrained from voting at any election :

- II. Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, give, or procure, or agree to give or procure, or offer, promise, or promise to procure or to endeavour to procure any office, place, or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote, or refrain from voting, or shall corruptly do any such act as aforesaid, on account of any voter having voted, or refrained from voting at any election :
- III. Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, make any such gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person, in order to induce such person to procure or endeavour to procure the return of any person to serve in parliament, or the vote of any voter at any election :
- IV. Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procure, or engage, promise, or endeavour to procure the return of any person to serve in parliament, or the vote of any voter at any election :
- V. Every person who shall advance or pay, or cause to be paid, any money to or to the use of, any other person, with the intent that such money or any part thereof shall be expended in bribery at any election, or who shall knowingly pay, or cause to be paid any money to any person in discharge, or repayment, of any money wholly, or or in part, expended in bribery at any election :

And any person so offending shall be guilty of a misdemeanor, and in Scotland of an offence punishable by fine and imprisonment, and shall also be liable to forfeit the sum of one hundred pounds to any person who shall sue for the same, together with full costs of suit : Provided always that the aforesaid enactment shall not extend or be construed to extend to any money paid or agreed to be paid for, or on account of any legal expenses *bond fide* incurred at or concerning any election.

Bribery
further de-
fined.

3. The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly :

- I. Every voter who shall, before or during any election,

directly or indirectly, by himself or by any other person on his behalf, receive, agree, or contract for, any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting, at any election :

- II. Every person who shall, after any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration, on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting, at any election :

And any person so offending shall be guilty of a misdemeanor, and in Scotland of an offence punishable by fine and imprisonment, and shall also be liable to forfeit the sum of ten pounds to any person who shall sue for the same, together with full costs of suit. Penalty.

4. Every candidate at an election, who shall corruptly by himself, or by or with any person, or by any other ways and means on his behalf, at any time, either before, during, or after any election, directly or indirectly give or provide, or cause to be given or provided, or shall be accessory to the giving or providing, or shall pay, wholly or in part, any expenses incurred for any meat, drink, entertainment, or provision, to or for any person, in order to be elected, or for being elected, or for the purpose of corruptly influencing such person, or any other person, to give or refrain from giving his vote at such election, or on account of such person having voted or refrained from voting, or being about to vote or refrain from voting at such election, shall be deemed guilty of the offence of treating, and shall forfeit the sum of fifty pounds to any person who shall sue for the same, with full costs of suit ; and every voter who shall corruptly accept or take any such meat, drink, entertainment, or provision, shall be incapable of voting at such election, and his vote, if given, shall be utterly void and of none effect. Treating defined. Penalty.

5. Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, make use of, or threaten to make use of, any force, violence, or restraint, or inflict or threaten the infliction, by himself or by or through any other person, of any injury, damage, harm, or loss, or in any other manner practise intimidation upon, or against, any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who shall, by abduction, duress, or any fraudulent device or contrivance, impede, prevent, or otherwise interfere with the free Undue influence defined.

- exercise of the franchise of any voter, or shall thereby compel, induce, or prevail upon, any voter, either to give or to refrain from giving his vote at any election, shall be deemed to have committed the offence of undue influence, and shall be guilty of a misdemeanor, and in Scotland of an offence punishable by fine or imprisonment, and shall also be liable to forfeit the sum of fifty pounds to any person who shall sue for the same, together with full costs of suit.
- Penalty.** 6. Whenever it shall be proved before the revising barrister that any person who is or claims to be placed on the list or register of voters for any county, city, or borough, has been convicted of bribery or undue influence at an election, or that judgment has been obtained against any such person for any penal sum hereby made recoverable in respect of the offences of bribery, treating, or undue influence, or either of them, then and in that case such revising barrister shall, in case the name of such person is in the list of voters, expunge the same therefrom, or shall, in case such person is claiming to have his name inserted therein, disallow such claim; and the names of all persons whose names shall be so expunged from the list of voters, and whose claim shall be so disallowed, shall be thereupon inserted in a separate list, to be entitled "the list of persons disqualified for bribery, treating, or undue influence," which last-mentioned list shall be appended to the list or register of voters, and shall be printed and published therewith, whenever the same shall be, or is required to be, printed and published.
- Names of offenders to be struck out of register, and inserted in separate list.**
- No cockades, &c., to be given at elections.** 7. No candidate, before, during, or after any election, shall, in regard to such election, by himself or agent, directly or indirectly, give or provide to or for any person having a vote at such election, or to or for any inhabitant of the county, city, borough, or place for which such election is had, any cockade, ribbon, or other mark of distinction; and every person so giving and providing shall for every such offence forfeit the sum of two pounds to such person as shall sue for the same, together with full costs of suit; and all payments made for or on account of any chairing, or any such cockade, ribbon, or mark of distinction as aforesaid, or of any bands of music or flags or banners, shall be deemed illegal payments within this Act.
- Penalty.**
- Voters not to serve as special constables during elections.** 8. No person having a right to vote at the election for any county, city, borough, or other place, shall be liable or compelled to serve as a special constable at or during any election for a member or members to serve in parliament for such county, city, borough, or other place, unless he shall consent so to act; and he shall not be liable to any fine, penalty, or punishment whatever for refusing so

to act, any statute, law, or usage to the contrary notwithstanding.

9. The pecuniary penalties hereby imposed for the offences of bribery, treating, or undue influence respectively shall be recoverable by action or suit by any person who shall sue for the same in any of Her Majesty's superior courts at Westminster, if the offence be committed in England and Wales, and in any of Her Majesty's superior courts in Dublin if the offence be committed in Ireland, and in or before the court of sessions if the offence be committed in Scotland, and not otherwise.

Penalties,
how to be
recovered.

10. It shall be lawful for any criminal court, before which any prosecution shall be instituted for any offence against the provisions of this Act, to order payment to the prosecutor of such costs and expenses as to the said court shall appear to have been reasonably incurred in and about the conduct of such prosecution : Provided always that no indictment for bribery or undue influence shall be triable before any court of quarter sessions.

Costs and
expenses of
prosecu-
tions.

12. In case of any indictment or information by a private prosecutor for any offence against the provisions of this Act, if judgment shall be given for the defendant, he shall be entitled to recover from the prosecutor the costs sustained by the defendant by reason of such indictment or information, such costs to be taxed by the proper officer of the court in which such judgment shall be given.

In cases of
private pro-
secutions, if
judgment be
given for the
defendant,
he shall
recover costs
from the
prosecutor.

13. It shall not be lawful for any court to order payment of the costs of the prosecution for any offence against the provisions of this Act, unless the prosecutor shall, before or upon the finding of the indictment or the granting of the information, enter into a recognizance, with two sufficient sureties, in the sum of two hundred pounds (to be acknowledged in like manner as is now required in cases of writs of certiorari awarded at the instance of a defendant in an indictment), with the conditions following; that is to say, that the prosecutor shall conduct the prosecution with effect, and shall pay to the defendant or defendants, in case he or they shall be acquitted, his or their costs.

Prosecutor
not to be en-
titled to
costs unless
he shall have
entered into
a recogni-
zance to con-
duct prose-
cution and
pay costs.

14. No person shall be liable to any penalty or forfeiture hereby enacted or imposed, unless some prosecution, action, or suit for the offence committed shall be commenced against such person within the space of one year next after such offence against this Act shall be committed, and unless such person shall be summoned or otherwise served with writ or process within the same space of time, so as such summons or service of writ or process shall not be prevented by such person absconding or withdrawing out of the jurisdiction of the court out of which such writ

Limitation
of actions.

or other process shall have issued ; and in case of any such prosecution, suit, or process as aforesaid, the same shall be proceeded with and carried on without any wilful delay.

Refreshments to voters on the days of nomination or polling declared illegal.

23. And whereas doubts have also arisen as to whether the giving of refreshment to voters on the day of nomination or day of polling be or be not according to law, and it is expedient that such doubts should be removed : Be it declared and enacted, that the giving or causing to be given to any voter on the day of nomination or day of polling, on account of such voter having polled, or being about to poll, any meat, drink, or entertainment by way of refreshment, or any money or ticket to enable such voter to obtain refreshment, shall be deemed an illegal act, and the person so offending shall forfeit the sum of forty shillings for each offence to any person who shall sue for the same, together with full costs of suit.

In action for penalties, parties, &c., to be competent witnesses.

35. On the trial of any action for recovery of any pecuniary penalty under this Act, the parties to such action, and the husbands and wives of such parties respectively, shall be competent and compellable to give evidence in the same manner as parties and their husbands and wives are competent and compellable to give such evidence in actions and suits under the Act of the fourteenth and fifteenth Victoria, chapter ninety-nine, and "The Evidence Amendment Act, 1853," but subject to and with the exceptions contained in such several Acts : Provided always, that any such evidence shall not thereafter be used in any indictment or criminal proceeding under this Act against the party giving it.

Candidates declared guilty of bribery incapable of being elected during parliament then in existence.

36. If any candidate at any election for any county, city, or borough shall be declared by any election committee, guilty, by himself or his agents, of bribery, treating, or undue influence, at such election, such candidate shall be incapable of being elected or sitting in parliament for such county, city, or borough during the parliament then in existence.

Short title.

37. In citing this Act in any instrument, document, or proceeding, or for any purpose whatsoever, it shall be sufficient to use the expression "The Corrupt Practices Prevention Act, 1854."

Interpretation of terms.

38. Throughout this Act, in the construction thereof, except there be something in the subject or context repugnant to such construction, the word "county" shall extend to and mean any county, riding, parts, or division of a county, stewardry, or combined counties respectively, returning a member or members to serve in parliament ; and the words "city or borough" shall mean any university,

city, borough, town corporate, county of a city, county of a town, Cinque Port, district of burghs, or other place or combination of places (not being a county as hereinbefore defined) returning a member or members to serve in parliament; and the word "election" shall mean the election of any member or members to serve in parliament; and the words "returning officer" shall apply to any person or persons to whom by virtue of his or their office under any law, custom, or statute, the execution of any writ or precept doth or shall belong for the election of a member or members to serve in parliament, by whatever name or title such person or persons may be called; and the words "revising barrister" shall extend to and include an assistant barrister and chairman, presiding in any court held for the revision of the list of voters, or his deputy in Ireland, and a sheriff or sheriff's court of appeal in Scotland, and every other person whose duty it may be to hold a court for the revision and correction of the lists or registers of voters in any part of the United Kingdom; and the word "voter" shall mean any person who has or claims to have a right to vote in the election of a member or members to serve in parliament; and the words "candidate at an election" shall include all persons elected as members to serve in parliament at such election; and all persons nominated as candidates, or who shall have declared themselves candidates at or before such election; and the words "personal expenses," as used herein with respect to the expenditure of any candidate in relation to any election shall include the reasonable travelling expenses of such candidate, and the reasonable expenses of his living at hotels or elsewhere for the purposes of and in relation to such election.

39. This Act shall continue in force for one year next Duration of after the passing thereof, and henceforth to the end of the Act. then next session of parliament.*

21 & 22 Vict., c. 87.

1. It shall be lawful for any candidate, or his agent, by him appointed in writing according to the provisions of the first mentioned Act,† to provide conveyance for any voter for the purpose of polling at an election and not otherwise, but it shall not be lawful to pay any money or give any valuable consideration to a voter for or in respect of his travelling expenses for such purpose. . . .

As to travelling expenses of voters.

* Continued annually.

† *i.e.* 17 & 18 Vict. c. 102.

Definition of
candidates.

[8. So much of section thirty-eight of the said first-mentioned Act as defines the words "candidate at an election" shall be repealed; and*] in the construction of the said Act as amended by this Act the words "candidate at an election," and the words "candidate at any election," shall include all persons elected to serve in parliament at such election, and all persons nominated as candidates at such election, or who shall have declared themselves candidates on or after the day of the issuing of the writ for such election, or after the dissolution or vacancy in consequence of which such writ shall have been issued: provided that nothing herein contained shall be construed to impose any liability on any person nominated without his consent.

21 & 22 Vict., c. 110.

Power to
Speaker to
issue war-
rants for
making out
new writs in
the room of
members
accepting
certain
offices.

1. FROM and after the passing of this Act, it shall and may be lawful for the Speaker of the House of Commons for the time being, during any recess of the House as aforesaid, to issue his warrant to the clerk of the crown to make out a new writ for election of a member of the House in the room of any member who has, since such adjournment or prorogation, accepted any office whereby he has, either by the express provision of any Act of parliament or by any previous determination of the House of Commons, vacated his seat in the House of Commons, so soon as he shall have been gazetted thereto in any of the Queen's gazettes, and a notice thereof, together with a copy of the gazette, shall have been sent to the Speaker by a certificate under the hands of two members of the House of Commons, according to the form in the schedule to this Act annexed, or to the like effect.

Members
accepting
office to
notify the
same to the
Speaker.

2. Provided always, that any member of the House of Commons accepting any such office as aforesaid shall forthwith notify his acceptance thereof to the Speaker, either by writing under the hand of such member or by his counter-signing the said certificate relating to such acceptance, and the Speaker shall not issue his warrant in pursuance of this Act without having received such notification, and until fourteen days after he shall have caused notice of his having received such certificate and notification to be inserted in the London Gazette.

If case ap-
pears to the
Speaker
doubtful,
warrant not
to issue.

3. Provided always, that in any case in which it shall appear to the Speaker to be doubtful whether the acceptance of any office which has been certified to him as aforesaid has the effect of vacating the seat of the person so appointed, it shall be lawful for the said Speaker, instead of issuing his warrant in pursuance of this Act, to reserve such question for the decision of the House.

* Repealed 38 & 39 Vict. c. 66, sch.

4. Provided always, that this Act shall not in any way apply to the acceptance of any of the following offices; that is to say, the office of Steward or Bailiff of Her Majesty's three Chiltern hundreds of Stoke, Desborough, and Bonenham, or of the manor of East Hendred, or of the manor of Northstead, or of the manor of Hempholme, or of Escheator of Munster.

5. All the other provisions of the said recited Act shall be applicable to the cases provided for in this Act.

6. This Act may be cited as the "Election of Members during Recess Act, 1858."

Act not to apply to certain offices.

24 G. 3 to apply to this Act. Short title.

SCHEDULE.

WE, whose names are underwritten, being two members of the House of Commons, do hereby certify that *M.P.*, late a member of the said House, serving as one of the knights of the shire for the county of [or as the case may be], has accepted the office of Member of the Council for India [or as the case may be], and has been gazetted thereto in the Gazette, dated the day of , and has thereby vacated his seat; and we give you this notice, to the intent that you may issue your warrant to the clerk of the crown to make out a new writ for the election of a knight to serve in parliament for the said county of [or as the case may be], in the room of the said *M.P.*

Given under our hands, this

day of

A.B.

C.D.

To the Speaker of the House of Commons.

24 & 25 Vict., c. 53.

*An Act to provide that Votes at Elections for the Universities may be recorded by means of Voting Papers.**

WHEREAS it is expedient to afford greater facilities for voting to the electors at elections for burgesses to serve in parliament for the Universities of Oxford, Cambridge, and Dublin: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

* By s. 31 of the Ballot Act, 1872, nothing in that Act, except the part relating to personation, is to apply to any election for a University or combination of Universities.

This Act is amended by 31 & 32 Vict. c. 65, which see *post*, p. lxxx. and is made to apply to elections for the University of London, by 30 & 31 Vict. c. 102, s. 46, *post*, p. lxxi.

Electors to
vote by
means of
voting
papers.

1. It shall be lawful for such electors, in lieu of attending to vote in person, to nominate any other elector or electors of the same University, competent to make the declaration hereinafter mentioned, to deliver for them at the poll voting papers containing their votes, as by this Act provided. Every such voting paper shall bear date subsequently to notice given by the returning officer of the day for proceeding to election, and shall contain the name or names of the candidate or candidates thereby voted for, and the name or names of the elector or electors authorised on behalf of the voter to tender such voting paper at the poll, and shall be according to the form or to the effect prescribed in the schedule to this Act annexed. Such voting paper, the aforesaid date and names being previously filled in, shall, on any day subsequent to notice given by the returning officer of the day for proceeding to election, be signed by the voter in the presence of a justice of the peace for the county or borough in which such voter shall be then residing; and the said justice shall certify and attest the fact of such voting paper having been so signed in his presence, by signing at the foot thereof a certificate or attestation in the form or to the effect prescribed in the said schedule, with his name and address in full, and shall state his quality as a justice of the peace for such county or borough.

Voting
papers to be
read, and
votes
recorded.

2. The voting paper, signed and certified as aforesaid, may be delivered to the vice-chancellor of the University for which the election is held, or to any pro-vice-chancellor appointed by him, or, in the case of the University of Dublin, to the provost of Trinity College, or to any person lawfully deputed to act for him, or any one of the appointed polling places during the appointed hours of polling, by any one of the persons therein nominated in that behalf, who shall, on tendering such voting paper at the poll, read out the same; and the said vice-chancellor, pro-vice-chancellor, provost, or deputy shall receive the voting papers as the same shall be delivered, and shall cause the votes thereby given, or such of them as may not appear to be contrary to the provisions of this Act, to be recorded *in the manner heretofore used*,* in all respects as if such votes had been given by the electors attending in person; and all votes so recorded shall have the same validity and effect as if they had been duly given by the voters in person. Provided always, that no person shall be entitled to sign or vote by more than one voting paper at any election, and that no voting paper containing the names of more candidates than there are burgesses to be

* The words in italics are not to apply to the University of London; 31 & 32 Vict. c. 65, s. 2, *post*; nor to the Scotch Universities; 31 & 32 Vict. c. 48, s. 39, *post*.

electd at such election shall be received or recorded : Provided also, that no voting paper shall be received or recorded unless the person tendering the same shall make the following declaration, which he shall sign at the foot or back thereof :—

[See form in 31 & 32 Vict. c. 65, *post.*]

Provided also, that no voting paper shall be so received and recorded if the voter signing the same shall have already voted in person at the same election : Provided also, that every such elector shall be entitled to vote in person, notwithstanding that he has duly signed and transmitted a voting paper to another elector, if such voting paper has not been already tendered at the poll.

3. It shall be lawful for any person now by law or custom authorised on behalf of any candidate to object to votes, to inspect any voting paper tendered at the poll before the same shall be received or recorded, and to object to it on one or more of the following grounds:

Voting papers may be inspected by any person now entitled to object to votes.

- I. That the person on whose behalf the voting paper is tendered is not qualified to vote :
- II. That the person tendering the voting paper is not duly qualified in that behalf :
- III. That the person in whose behalf the voting paper is tendered has already voted at that election in person or by voting paper :
- IV. That the voting paper bears date anterior to notice given by the returning officer of the day for proceeding to election :
- V. That the voting paper is forged or falsified :

And the returning officer, his deputy or assessor, or any officer having by law or custom power to decide objections in respect of votes tendered by voters attending the poll in person, shall have power to put questions to the person tendering such voting paper, and to reject, receive, and record, or receive and record as objected to or protested against, any votes tendered by voting papers : Provided that in case the objection offered to any voting paper shall be that it is forged or falsified, such returning or other officer shall receive and record such voting paper, having previously written upon it, "objected to as forged," or "objected to as falsified," together with the name of the person making such objection.

4. All voting papers received and recorded at such election, as well as any voting papers rejected for informality or on any other ground, shall be filed and kept by the officer entrusted with the care of the poll-books or other documents relating to the said election : and any person shall be allowed to examine such voting papers at all reasonable times, and to take copies thereof upon payment of a fee of one shilling.

Voting papers to be filed.

Penalty for
falsely sign-
ing voting
papers.

5. Any person falsely or fraudulently signing any voting paper in the name of any other person, either as a voter or as a witness, whether such other person shall be living or dead, and every person signing, subscribing, endorsing, attesting, certifying, tendering, or transmitting as genuine, any false or falsified voting paper, knowing the same to be false or falsified, and any person falsely making any such declaration as aforesaid, or such declaration as is contained in the schedule, or with fraudulent intent altering, defacing, destroying, withholding, or abstracting any voting paper, and any person wilfully making a false answer to any question put to him by the returning or other officer as hereinbefore provided, shall be guilty of a misdemeanor, and punishable by fine, or imprisonment for a term not exceeding one year.

Voting
papers not
liable to
stamp duty.

6. No such voting paper as hereinbefore mentioned shall be liable to any stamp duty.

SCHEDULE.*

UNIVERSITY ELECTION, 18 .

I, *A. B.* [*the Christian and Surnames of the elector in full, his College or Hall, if any, and his degree or academical rank or office, if any, to be here inserted*], do hereby declare that I have signed no other voting paper at this election, and do hereby give my vote at this election for

And I nominate

C. D.
E. F.
G. H.

or one of them, to deliver this voting paper at the poll.

Witness my hand this day of 18 .

(Signed) [*A. B.* of [*the elector's place of residence to be here inserted.*]

Signed in my presence by the said *A. B.*, who is personally known to me, on the above-mentioned day of 18 , the name [*or names*] of as the candidate [*or candidates*] voted for having been previously filled in.

(Signed) *L. M.* of [*the witness's place of residence to be here inserted*].

A Justice of the Peace for

24 & 25 Vict., c. 83.

45. A declaration in the form of the schedule D. to this Act annexed shall be substituted for the oath or solemn affirmation [now repealed]

* The form to be used in the Scotch Universities is supplied by 31 & 32 Vict. c. 48, s. 39, *post*.

SCHEDULE D.

I, *A. B.*, declare that I am the person whose name appears on the register of voters now in force for the county of _____ as *A. B.* [*Name and Surname and place of abode as in register*], and that I have not before voted at this election.

25 & 26 Vict., c. 62.

4.* At every contested election of a knight or knights of the shire to serve in parliament for any county in Ireland [which shall take place after the commencement of this Act†], the polling shall commence on the next day but two after the day fixed for the election (such day not being Sunday, Good Friday, or Christmas Day), and shall continue for one day only, save in the cases hereinafter mentioned, and shall commence at the hour of eight in the forenoon of the day next but two after the day fixed for the election, and be kept open until five in the afternoon of such day, any statute to the contrary notwithstanding: Provided always, that when such next day but two after the day fixed for the election shall be Sunday, Good Friday, or Christmas Day, then in case it be Sunday the poll shall be on the Monday next following, and in case it be Good Friday then on the Saturday next following, and in case it be Christmas Day then on the next day following if the same shall not be Sunday, and if it be Sunday, on the next following Monday: [Provided always, that in case any election shall take place for any county in Ireland before or on the said first day of January, one thousand eight hundred and sixty-three, the poll and proceedings thereat shall be taken in the same manner as if this Act had not been passed.†]

Regulating time for polling at elections for knights of the shire in Ireland, &c.

Elections on or before the 1st January, 1863, not to be affected.

6. Nothing in this Act contained shall prevent any sheriff or other returning officer, or the lawful deputy of any sheriff or returning officer, from closing the poll at any contested election for any county in Ireland, previous to the expiration of the time fixed by this Act, in any case where the same might have been lawfully closed before the passing of this Act.

Poll may be closed in certain cases as heretofore.

7. Where the proceedings at any election after the commencement of this Act (whether such proceedings shall consist of the nomination of a candidate or candidates or of the taking of the poll) shall be interrupted or obstructed by any riot or open violence at or near the place of election or a polling place, or shall be interrupted or obstructed by any riot or open violence taking place elsewhere by the violent

Proceedings in cases of riot.

* By the Ballot Act, so much of this section is repealed as prescribes the interval between the day fixed for the election and the polling.

† Repealed by Statute Law Revision Act, 1875, 38 & 39 Vict. c. 66.

or forcible prevention, obstruction, or interruption of voters proceeding on their way to such election or polling place, (such last-mentioned prevention, obstruction, or interruption of voters proceeding on their way as aforesaid being shown by affidavit), the sheriff or other returning officer, or the lawful deputy of any sheriff or returning officer, shall not for such cause terminate the business of such nomination, nor finally close the poll, but shall adjourn the nomination or the taking of the poll, at the particular polling place or polling places at or near to which, or on the way to which, such interruption or obstruction shall have happened, until the following day, and, if necessary, shall further adjourn such nomination or poll, as the case may be, until such interruption or obstruction shall have ceased, when the sheriff or returning officer, or his deputy, shall again proceed with the business of the nomination or with the taking the poll, as the case may be, at the place or places at or near to which, or on the way to which, the same respectively may have been interrupted or obstructed; and the day on which the business of the nomination shall have been concluded shall be deemed to have been the day fixed for the election, and the commencement of the poll shall be regulated accordingly; and any day whereon the poll shall have been so adjourned shall not at such place or places be reckoned the day of polling at such election within the meaning of this Act; and whenever the poll shall have been so adjourned by any deputy of any sheriff or other returning officer, such deputy shall forthwith give notice of such adjournment to the sheriff or returning officer, who shall not finally declare the state of the poll, or make proclamation of the member or members chosen, until the poll so adjourned at such place or places as aforesaid shall have been finally closed, and the poll-books delivered or transmitted to such sheriff or other returning officer, anything hereinbefore contained, or in any other statute, to the contrary notwithstanding: Provided always, that this Act shall not be taken to authorize an adjournment to a Sunday, but that in every case in which the day to which the adjournment would otherwise be made shall happen to be a Sunday, Good Friday, or Christmas Day, that day or days shall be passed over, and the following shall be the day to which the adjournment shall be made.

25 & 26 Vict., c. 92.

Sheriff to be
returning
officer in
boroughs
where the

3. EVERY writ for making any election of a member or members to serve in parliament for any city, town, or borough in Ireland shall be directed to the returning officer of the said city, town, or borough, or his deputy, and in

their absence to the sheriff of the county in which the said city, town, or borough is situate; and in all cases whatever whenever there shall be, either from temporary vacancy or from some other cause, no person duly qualified in any such city, town, or borough to perform the duties of a returning officer for the same, the sheriff of the county in which such city, town, or borough is situate shall be charged with the execution of the said writ, and shall execute the same, and in all respects perform the duties of and incidental to the office of returning officer: Provided always, that it shall not be lawful for the said sheriff to receive or execute the writ except when there shall be no person within the said city, town, or borough legally qualified and competent as returning officer to execute the same.

office of
returning
officer shall
be vacant.

4. All writs for the election of any member or members to serve in parliament for any county, city, town, or borough in Ireland, [issued after the commencement of this Act*] and all mandates, precepts, instruments, proceedings, and notices consequent upon such writs, shall be and the same are hereby authorized to be framed and expressed in such manner and form as may be necessary for carrying the provisions of this Act into effect.

Writs, &c.,
to be con-
formable to
this Act.

26 Vict., c. 29.

1. The expression "the Corrupt Practices Prevention Acts," shall include this Act and the said Act of the twenty-first and twenty-second years of the reign of Her present Majesty, and the Corrupt Practices Prevention Act, 1854, as amended by the said other Acts.

Short title.

2. No payment (except in respect of the personal expenses of a candidate), and no advance, loan, or deposit, shall be made by or on behalf of any candidate at an election, before or during or after such election, on account of or in respect of such election, otherwise than through an agent or agents whose name and address, or names and addresses, have been declared in writing to the returning officer on or before the day of nomination, or through an agent or agents to be appointed in his or their place as herein provided; and any person making any such payment, advance, loan, or deposit, otherwise than through such agent or agents, shall be guilty of a misdemeanour, or in Scotland of an offence punishable by fine and imprisonment. It shall be the duty of the returning officer to publish, on or before the day of nomination, the name and address or the names and addresses of the agent or agents appointed in pursuance of this section.

No pay-
ment, &c.,
shall be
made by or
on behalf of
candidates
otherwise
than
through
authorized
agents.

In the event of the death or legal incapacity of any

Appoint-
ment of

* Repealed Statute Law Revision Act, 1875, 38 & 39 Vict. c. 66,

fresh agent
in case of
death or
legal inca-
pacity.

agent appointed in pursuance of this section, the candidate shall forthwith appoint another agent in his place on giving notice to the returning officer of the name and address of the person so appointed, which shall be forthwith published by the returning officer.

Bills, &c.,
to be sent in
within one
month, to
agent, or
right to
recover
barred.

3. All persons who have any bills, charges, or claims upon any candidate for or in respect of any election, shall send in such bills, charges, or claims within one month from the day of the declaration of the election to such agent or agents as aforesaid, otherwise such persons shall be barred of their right to recover such claims and every or any part thereof : Provided always, that in case of the death within the said month of any person claiming the amount of such bill, charge, or claim, the legal representative of such person shall send in such bill, charge, or claim within one month after obtaining probate or letters of administration, or confirmation as executor, as the case may be, or the right to recover such claim shall be barred as aforesaid : Provided also, that such bills, charges, and claims shall and may be sent in and delivered to the candidate, if, and so long as, during the said month, there shall, owing to death or legal incapacity, be no such agent.

As to publi-
cation of
statement
of election
expenses.

4. A detailed statement of all election expenses incurred by or on behalf of any candidate, including such excepted payments as aforesaid, shall within two months after the election (or in cases where, by reason of the death of the creditor, no bill has been sent in within such period of two months, then within one month after such bill has been sent in), be made out and signed by the agent, or, if there be more than one, by every agent who has paid the same (including the candidate in case of payments made by him), and delivered, with the bills and vouchers relative thereto, to the returning officer ; and the returning officer for the time being shall, at the expense of the candidate, within fourteen days, insert or cause to be inserted an abstract of such statement, with the signature of the agent thereto, in some newspaper published or circulating in the county or place where the election was held ; and any agent or candidate who makes default in delivering to the returning officer the statement required by this section, shall incur a penalty not exceeding five pounds for every day during which he so makes default ; and any agent or candidate who wilfully furnishes to the said returning officer an untrue statement, shall be guilty of a misdemeanour, or in Scotland of an offence punishable by fine and imprisonment ; and the said returning officer shall preserve all such bills and vouchers, and, during six months after they have been delivered to him, permit any voter to inspect the same, on payment of a fee of one shilling.

5. The provisions of the fourteenth section of the Corrupt Practices Prevention Act, 1854, shall extend to a misdemeanor or to any other offence under the Corrupt Practices Prevention Acts not punishable by a penalty or forfeiture, as well as to proceedings for any offence punishable by a penalty or forfeiture.

Sect. 14 of
17 & 18 Vict.
c. 102, ex-
tended to
misdemean-
ors, &c.

6. In any indictment or information for bribery or undue influence, and in any action or proceeding for any penalty for bribery, treating, or undue influence, it shall be sufficient to allege that the defendant was at the election at or in connection with which the offence is intended to be alleged to have been committed, guilty of bribery, treating, or undue influence (as the case may require); and in any criminal or civil proceedings in relation to any such offence, the certificate of the returning officer in this behalf shall be sufficient evidence of the due holding of the election and of any person therein named having been a candidate thereat.

General
allegations
sufficient in
indict-
ments.

7. No person who is called as a witness before any election committee, or any commissioners appointed in pursuance of the Act of the session holden in the 15th and 16th years of the reign of Her present Majesty, cap. 57, shall be excused from answering any question relating to any corrupt practice at, or connected with, any election forming the subject of inquiry by such committee or commissioners, on the ground that the answer thereto may criminate or tend to criminate himself; Provided always, that where any witness shall answer every question relating to the matters aforesaid, which he shall be required by such committee or commissioners (as the case may be) to answer, and the answer to which may criminate or tend to criminate him, he shall be entitled to receive from the committee under the hand of their clerk, or from the commissioners, under their hands (as the case may be), a certificate stating that such witness was, upon his examination, required by the said committee or commissioners to answer questions or a question relating to the matters aforesaid, the answers or answer to which criminated or tended to criminate him, and had answered all questions or such question; and if any information, indictment, or action be at any time thereafter pending in any court against such witness for any offence under the Corrupt Practices Prevention Acts, or for which he might have been prosecuted or proceeded against under such Acts, committed by him previously to the time of his giving his evidence, and at or in relation to the election concerning or in relation to which the witness may have been so examined, the court shall, on production and proof of such certificate, stay the proceedings in such last-mentioned information, indictment, or action, and may, at its discretion, award to such witness such costs as he may have been put to in such information, indictment, or action: provided that no statement made by

Evidence of
witness on
election
committee
and before
commis-
sioners.

any person in answer to any question put by or before such election committee or commissioners shall, except in cases of indictments for perjury, be admissible in any evidence in any proceeding, civil or criminal.

Prosecu-
tions for
bribery.

9. Where an election committee has reported to the House of Commons that certain persons named by them have been guilty of bribery or treating, and where it appears by the report of any commission of inquiry into corrupt practices at any election made to Her Majesty and laid before parliament, that certain persons named by them have been guilty of the offences of bribery or treating, and have not been furnished by them with certificates of indemnity, such report, with the evidence taken by the commission, shall be laid before the Attorney-General, with a view to his instituting a prosecution against such persons if the evidence should, in his opinion, be sufficient to support a prosecution.

30 & 31 Vict., c. 102.

The Representation of the People Act, 1867.

Application
of Act.

2. This Act shall not apply to Scotland or Ireland, nor in anywise affect the election of members to serve in parliament for the Universities of Oxford and Cambridge.

Restriction
as to
number of
votes.

9. At a contested election for any county or borough represented by three members no person shall vote for more than two candidates.

10. At a contested election for the city of London no person shall vote for more than three candidates.

No elector
who has
been em-
ployed for
reward
within six
months of
an election
to be en-
titled to
vote.

11. No elector who within six months before or during any election for any county or borough shall have been retained, hired, or employed for all or any of the purposes of the election for reward by or on behalf of any candidate at such election as agent, canvasser, clerk, messenger, or in other like employment, shall be entitled to vote at such election, and if he shall so vote he shall be guilty of a misdemeanor.

Places for Election, and Polling Places.

Courts for
the election
of members
for counties,
as in Sched-
ule (D.).

33. The court for the election of members for each of the divisions mentioned in the second column of the said Schedule (D.) shall be holden at the places named for that purpose in the fourth column of the same schedule.*

34. In every county the justices of the peace having jurisdiction therein or in the larger part thereof, assembled

* By rule 3 of the Ballot Act, 1872, it is enacted that elections shall continue to be held at these places.

at some court of general or quarter sessions, or at some Provision adjournment thereof, held after the passing of this Act, may, if they think convenience requires it, divide such county into polling districts, and assign to each district a polling place, in such manner as to enable each voter, so far as practicable, to have a polling place within a convenient distance of his residence; and the justices shall advertise, in such manner as they think fit, a description of the polling districts so constituted by them, and the name of the polling place assigned to each district, and shall name the polling places at which the Revising Barristers are to hold their courts, and no Revising Barrister shall be obliged to hold his courts at any polling places not so named: Provided that the justices of the peace for the Isle of Ely, assembled, as aforesaid, shall carry into effect the provisions of this section so far as regard the said Isle of Ely; but nothing herein contained shall affect the powers conferred by any other Act of parliament of altering polling places or polling districts, or of creating additional polling places or districts: Provision as for increased polling places in counties, &c.*

The local authority of every borough shall, if they think convenience requires it, as soon as may be after the passing of this Act, divide such borough into polling districts, and the returning officer shall in the case of a contested election provide at least one booth or room for taking the poll in each polling district; and in cases where a parliamentary borough is constituted of two or more towns the distance between two of which shall exceed two miles, there shall be provided a booth or room for taking the poll in each of such towns: Division of boroughs into polling districts.

Where any parish in a borough is divided into or forms part of more than one polling district, the overseers shall, so far as practicable, make out the lists of voters in such manner as to divide the names in conformity with each polling district:

The town clerk, as defined by the Act of the Sixth Victoria, chapter eighteenth, shall cause the lists of voters for each borough to be copied, printed, arranged, and signed, and delivered in the manner directed by the said Act, so as to correspond with the division of the borough into polling districts:

A description of the polling districts made or altered in pursuance of this Act shall be advertised by the local authority in such manner as they think fit, and notice of the situation, division, and allotment of the polling booth or place for each district shall be given in manner now required by law:

* This section is amended by 31 & 32 Vict. c. 58, s. 18. See also Ballot Act, 1872, s. 5, which gives further power for providing polling places.

The local authority shall mean in every municipal borough, and in every borough any part of which forms a municipal borough, the town council of such borough, and in other boroughs the justices of the peace acting for such borough, or if there be no such justices then the justices acting for the division of the county in which such borough or the greater part thereof is situate; and in cases where a parliamentary borough is constituted by the combination of two or more municipal boroughs, then the local authority shall mean the town council of that municipal borough in which the nomination takes place:

The local authority may from time to time alter any districts made by them under this Act.

Payment of expenses of conveying voters in boroughs to the poll illegal, except here-in named.

36.* It shall not be lawful for any candidate, or any one on his behalf, at any election for any borough, except the several boroughs of East Retford, Shoreham, Cricklade, Much Wenlock, and Aylesbury, to pay any money on account of the conveyance of any voter to the poll, either to the voter himself or to any other person; and if any such candidate, or any person on his behalf, shall pay any money on account of the conveyance of any voter to the poll, such payment shall be deemed to be an illegal payment within the meaning of "The Corrupt Practices Prevention Act, 1854."

Rooms to be hired for taking polls wherever they can be obtained.†

37. At every contested election for any county or borough, unless some building or place belonging to the county or borough is provided for that purpose, the returning officer shall, whenever it is practicable, so to do, instead of erecting a booth, hire a building or room for the purpose of taking the poll.

Election in University of London.

Vice-Chancellor of University of London to be the returning officer.

Elections for University of London to be within six days after receipt of writ, three clear days' notice being given.

41. The Vice-Chancellor of the University of London shall be the returning officer for such University, and the writ for any election of a member to serve in parliament for such University shall be directed to such vice-chancellor.

42. The Vice-Chancellor for the University of London shall proceed to election, in pursuance of any writ to be directed to him as hereinbefore mentioned, within six days after the receipt of such writ, giving three clear days' notice of the day and place of election, exclusive of the day of proclamation and the day of election; and the vice-chancellor shall after such election certify the same, together with such writ, according to the directions thereof.

* As to this section see the Parliamentary and Corrupt Practices Act, 1880, printed at the end of this Appendix.

† As to using school and public rooms for poll, see Ballot Act, 1872, s. 6. See also note to Scotch Reform Act, 1868, s. 26, *post*, p. lxxiv.

43. At every contested election of a member or members to serve in parliament for the University of London the polling shall commence at eight o'clock in the morning of the day next following the day fixed for the election, and may continue for not more than five days (Sunday, Christmas Day, Ascension Day, and Good Friday being excluded), but no poll shall be kept open later than four o'clock in the afternoon.

Polling at University of London may continue five days.

44. At every election of a member to serve in parliament for the University of London the Vice-Chancellor shall appoint the polling place, and also shall have power to appoint two or more pro-vice-chancellors, any one of whom may receive the votes and decide upon all questions during the absence of such Vice-Chancellor; and such Vice-Chancellor shall have power to appoint poll clerks and other officers, by one or more of whom the votes may be entered in the poll book or such number of poll books as may be judged necessary by such Vice-Chancellor; and such Vice-Chancellor shall, not later than two o'clock in the afternoon of the day next following the close of the poll, openly declare the state of the poll and make proclamation of the member chosen.

Power to Vice-Chancellor to appoint polling place, Pro-Vice-Chancellors, and poll-clerks, to conduct the poll in the University of London.

45.† All the provisions of an Act passed in the twenty-fourth and twenty-fifth years of Her present Majesty, entitled "An Act to provide that votes at elections for the Universities may be recorded by means of voting papers," shall apply to every election of a member for the University of London.

Provisions 24 & 25 Vict. c. 53, as to voting papers to apply to University of London.*

Miscellaneous.

47. In any borough named in schedules (B.) and (C.) to this Act annexed, which is or includes a municipal borough, the mayor of such municipal borough shall be the returning officer, and in the other cases the returning officer shall be appointed in the same manner as if such places were included amongst the boroughs mentioned in schedules (C.) and (D.) of the Act of the second year of his late Majesty William the Fourth, chapter forty-five, for which no persons are mentioned in such schedules as returning officers.

As to returning officers in new boroughs.

49. Any person, either directly or indirectly, corruptly paying any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at any future election, and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him

Corrupt payment of rates to be punishable as bribery.

* The provisions of 31 & 32 Vict. c. 65, also apply to the University of London. See this Act *post*, page lxxx.

† This 45th section is repealed by Statute Law Rev. Act 1875, 38 & 39 Vict. c. 66, so far as it provides that the form of declaration prescribed by 24 & 25 Vict. c. 53, shall apply to elections of members for the University of London.

to vote or refrain from voting, shall be guilty of bribery, and be punishable accordingly; and any person on whose behalf and with whose privity any such payment as in this section is mentioned is made shall also be guilty of bribery, and punishable accordingly.

Returning officer, &c., acting as agent guilty of misdemeanor.*

50. No returning officer for any county or borough nor his deputy, nor any partner or clerk of either of them, shall act as agent for any candidate in the management or conduct of his election as a member to serve in parliament for such county or borough; and if any returning officer, his deputy, the partner or clerk of either of them, shall so act, he shall be guilty of a misdemeanor.

Members holding offices of profit from the crown, as in schedule (H.) not required to vacate their seats on acceptance of another office.

52. Whereas it is expedient to amend the law relating to offices of profit the acceptance of which from the crown vacates the seats of members accepting the same, but does not render them incapable of being re-elected: Be it enacted, That where a person has been returned as a member to serve in parliament since the acceptance by him from the crown of any office described in Schedule (H.) to this Act annexed, the subsequent acceptance by him from the crown of any other office or offices described in such schedule in lieu of and in immediate succession the one to the other shall not vacate his seat.

As to issue of writs to county palatine of Lancaster.

57. The County Palatine of Lancaster shall cease to be a county palatine in so far as respects the issue, direction, and transmission of writs for the election of members to serve in parliament for any division of the said county or for any borough in the said county, and such writs may be issued under the same seal, be directed to the like officer, and transmitted in the like manner under, to, and in which writs may be issued, directed, and transmitted in the case of divisions of counties and boroughs not forming part of or situate in a county palatine; and any writ issued, directed, and transmitted in manner directed by this section shall be valid accordingly.

Writs, &c., to be made conformable to this Act.

58. All writs to be issued for the election of members to serve in parliament, and all mandates, precepts, instruments, proceedings, and notices consequent upon such writs or relating to the registration of voters, shall be framed and expressed in such manner and form as may be necessary for the carrying the provisions of this Act into effect.

This Act, as far as consistent, to be construed with enactments now in force.

59. This Act, so far as is consistent with the tenor thereof, shall be construed as one with the enactments for the time being in force relating to the representation of the people and with the Registration Acts; and in construing the provisions of the twenty-fourth and twenty-fifth sections of the Act of the second year of King William

* By s. 11 of Ballot Act, 1872, this section is made applicable to any returning officer or officers appointed by him in pursuance of the Ballot Act, and to his partner or clerk.

the Fourth, chapter forty-five, the expressions "the provisions hereinafter contained," and "as aforesaid," shall be deemed to refer to the provisions of this Act conferring rights to vote as well as to the provisions of the said Act.

31 & 32 Vict., c. 48.

The Representation of the People (Scotland) Act, 1868.

7. At a contested election for the city of Glasgow no person shall vote for more than two candidates. Restriction on number of votes in Glasgow.

8. No elector who, within six months before or during any election for any county or burgh, shall have been retained, hired, or employed for all or any of the purposes of the election for reward by or on behalf of any candidate at such election as agent, canvasser, clerk, messenger, or in other like employment, shall be entitled to vote at such election; and if he shall so vote, he shall be guilty of a crime and offence. Electors employed for reward within six months of an election not to vote.

Places for Election and Polling Places.

24. The writ for the election of the member for the district of burghs enumerated in schedule (A.) to this Act annexed shall be addressed to the sheriff mentioned in the fifth column of the said schedule, and until otherwise directed by parliament, shall be proclaimed at the place named for that purpose in the third column thereof; and the writ for the election of the member for the counties of Peebles and Selkirk shall be addressed to the sheriff of the county of Peebles, and until otherwise directed by parliament shall be proclaimed at the burgh of Peebles; and the writs for the election of members for the division of counties enumerated in schedule (B.) to this Act annexed shall be addressed to the sheriffs of such counties, and, until otherwise directed by parliament, shall be proclaimed at the places named for that purpose in the fourth column of the said schedule. Places for election and returning officers for new constituencies.

25. It shall not be lawful for any candidate, or any one on his behalf, at any election for any burgh, to pay any money on account of the conveyance of any voter to the poll, either to the voter himself or to any other person; and if any such candidate, or any person on his behalf, shall pay any money on account of the conveyance of any voter to the poll, such payment shall be deemed to be an illegal payment within the meaning of the "Corrupt Practices Prevention Act, 1854." Payments for conveying voters in burghs to the poll illegal.

26. At every contested election for any county or burgh, unless some building or place belonging to the county or burgh is provided for that purpose, the sheriff clerk in any county, and in any city or burgh the town clerk, shall, whenever it is practicable so to do, instead of erecting a Rooms to be hired for polling wherever they can be obtained.

booth, hire a building or room for the purpose of taking the poll at the places appointed for such county or burgh.

Where in any place there is any room, the expense of maintaining which is payable out of any rates levied in such place, or which is under the control of the town council or other local authority, such room may, with the consent of those having the control over the same, be used for the purpose of taking the poll at such place.*

Where the town clerk incurs any expenses in erecting booths or hiring rooms for taking any poll under this Act, he shall have the same right and means of recovering the same from the candidates which the sheriff clerk has by the present law and practice.

Quorum of
University
Court for
purposes of
Act.

Returning
officers and
intimation
of election.

34. For the purpose of performing any duty required by this Act, the presence of a quorum of three shall be sufficient to constitute a meeting of the university court.

37. The Vice-Chancellor of the University of Edinburgh shall be the returning officer for the said university and the University of St. Andrews; and the Vice-Chancellor of the University of Glasgow shall be the returning officer for the said university and the University of Aberdeen; and the writs for any election of a member to serve in parliament for such universities shall be directed to such returning officers respectively; and the Vice-Chancellor to whom a writ for any such election shall be directed shall endorse on the back thereof the day he received it, and shall, within three days thereafter, announce a day and hour (which day shall not be less than three or more than six clear days after that on which the writ was received), and a place within the city of Edinburgh, for an election for the Universities of Edinburgh and St. Andrews, or within the city of Glasgow for an election for the Universities of Glasgow and Aberdeen, as the case may be, and shall give intimation thereof by advertisement in such newspapers as he shall deem expedient, and shall also, within the said first-mentioned three days, give intimation thereof in writing to the Vice-Chancellor of the University of St. Andrews or of Aberdeen, as the case may be.

Proclama-
tion of writs
for Univer-
sities.

38. On the day announced as aforesaid by the Vice-Chancellor for the election such Vice-Chancellor shall repair to the place named by him, to which place all persons entitled to vote in such election shall in the aforesaid advertisement be invited to repair on the day and at the hour named; and the said Vice-Chancellor shall then and there proclaim the writ by reading it; and if no more than one candidate shall be proposed for the choice of the electors,

* It may be observed that the enactment similar to this relating to England, contained in Reform Act, 1867, s. 37, *ante*, p. lxx. has been repealed. The similar enactment as to Ireland in the Irish Reform Act, 1868, s. 10, remains also unrepealed. See *post*, p. lxxix.

he shall, upon a show of hands, forthwith declare the person so put in nomination to be duly elected; it being always competent for any person entitled to vote in such election under this Act to repair to the place where the writ is proclaimed, and to put any person in nomination; and if more than one candidate shall be proposed, and a poll shall be demanded, the proceedings shall be adjourned for the purpose of taking the poll for not less than six or more than ten clear days, exclusive of Saturdays and Sundays; and the Vice-Chancellor shall forthwith give public intimation of such adjournment, and of the names of the candidates who have been proposed, by advertisement in such newspapers as he shall deem expedient, and shall also give intimation thereof in writing to the Vice-Chancellor of the University of St. Andrews or of Aberdeen, as the case may be.

39. The following regulations shall be observed with respect to the polling:—

Polling at
University
elections.

- I. On the day to which the proceedings have been adjourned as aforesaid for the purpose of taking the poll the polling shall commence at each university at eight o'clock in the morning, and may continue for not more than five days (exclusive of Sundays), but no poll shall be kept open later than four o'clock in the afternoon.
- II. The Vice-Chancellor of each university shall appoint the polling place at such university, and, if he shall think fit, shall advertise the same, and also shall have power to appoint one or more pro-vice-chancellors to take the poll at such university, and record the votes in poll books, and decide all questions with regard thereto, in the same manner as nearly as may be, and except as herein provided, as polls are now taken at elections for members to serve in parliament for burghs and counties in Scotland; and such Vice-Chancellor shall have power to appoint a poll clerk or poll clerks for the purpose of assisting the Pro-Vice-Chancellor or pro-vice-chancellors in taking the poll as hereinbefore mentioned.
- III. The poll books in which the votes have been recorded as hereinbefore provided shall be forthwith delivered by the Pro-Vice-Chancellor to the Vice-Chancellor by whom he was appointed; and the Vice-Chancellors of the Universities of St. Andrews and Aberdeen respectively shall, on receiving such poll books, immediately transmit them to the Vice-Chancellor, who is the returning officer for such university; and such Vice-Chancellor shall, within three days after such poll books have been received by him, in presence of the candidates or their agents, or of such of them as shall think proper to

attend or to appoint such agent, cast up the number of votes as they appear on the several books, and shall forthwith publish in the Edinburgh Gazette a notice containing the name of the candidate for whom the largest number of votes has been given, and declaring such candidate to be duly elected, and shall make a return in the form of similar returns presently used (as nearly as may be) in terms of the writ, under his hand and seal, to the clerk of the Crown in England, and if the votes be equal he shall make a double return.

- IV. All the provisions of an Act passed in the twenty-fourth and twenty-fifth years of the reign of her present Majesty, intituled an Act to provide that votes at elections for the Universities may be recorded by means of voting papers, except so much of the said Act as requires that the person delivering the voting paper shall make attestation of his personal acquaintance with the voter, shall apply to every election of a member for the Universities of Edinburgh and St. Andrews, and for the Universities of Glasgow and Aberdeen, subject to the following provisions : *

The words "recorded in the manner heretofore used," in the second section of the recited Act, shall in this Act mean "recorded in the manner hereinbefore directed."

The word "misdemeanor," in the fifth section of the recited Act, shall include crime and offence.

A voting paper may be signed by a voter being in one of the Channel Islands in the presence of the following officers ; that is to say,

1. In Jersey and Guernsey, of the bailiffs, or any lieutenant bailiff, jurat, or judge d'instruction :
2. In Alderney, of the judge of Alderney, or any jurat :
3. In Sark, of the seneschal or deputy seneschal :

And for the purpose of certifying and attesting the signature of such voting paper, each of the said officers shall have all the powers of a Justice of the Peace under the recited Act ; and a statement of the official quality of such officer shall be a sufficient statement of quality in pursuance of the provisions of the said Act.

In lieu of the schedule annexed to the recited

* Similar provisions are made for the English and Irish University elections in 31 & 32 Vict. c. 65. Vide *post*, p. lxxxii.

Act, the schedule (G.) to this Act annexed shall be substituted in elections for the Universities of Edinburgh and Saint Andrews, and for the Universities of Glasgow and Aberdeen.

40. Every Vice-Chancellor to whom a writ for the election of a member to serve in parliament shall, under the provisions of this Act, be directed, shall be allowed in exchequer such payments for executing such writ as are allowed to sheriffs under the existing law in the case of elections for counties or burghs; and in all cases where a poll has been demanded the candidates shall be bound to pay and contribute among them to each Pro-Vice-Chancellor appointed under this Act, for superintending the poll, a fee of three guineas for the first, and of one guinea for each subsequent day in which he shall have been so engaged; and the candidates shall further be bound to pay and contribute among them to each poll clerk one guinea per day, and the candidates shall in like manner be bound to defray the necessary expenses incurred by the Vice-Chancellors in the transmission or receipt of poll books or other communications or in making any advertisements required or enjoined by this Act; and if any person shall be proposed as a candidate without his consent, the person so proposing him shall be liable to pay his share of all such expenses in like manner as if he had been himself a candidate.

University
election
expenses.

41. When the Vice-Chancellor or Registrar of any University is absent, or is incapacitated by illness for discharging any duty required of him by this Act, or if the office of Vice-Chancellor or of Registrar shall be vacant, the duties herein imposed on the Vice-Chancellor or Registrar respectively shall be discharged by a person appointed for that purpose by the University Court of such University: and such person shall in that respect, but in no other, act for the time as and be deemed to be Vice-Chancellor or Registrar of such University.

Provision
for inca-
pacity of
Vice Chan-
cellor or
Registrar.

Miscellaneous.

49. Any person, either directly or indirectly, corruptly paying any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at any future election, and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him to vote or refrain from voting, shall be guilty of bribery, and be punishable accordingly; and any person on whose behalf and with whose privity any such payment as in this section mentioned is made shall also be guilty of bribery, and punishable accordingly.

Corrupt
payment of
rates to be
punishable
as bribery.

51. Whereas it is expedient to extend the law relating

Members holding offices of profit from the Crown as in Schedule (H.), not to vacate their seats on acceptance of another office.

to offices of profit, the acceptance of which from the Crown vacates the seats of members accepting the same, but does not render them incapable of being re-elected: Be it enacted, That where a person has been returned as a member to serve in parliament since the acceptance by him from the Crown of any office described in schedule (H.) to this Act annexed, the subsequent acceptance by him from the Crown of any other office or offices described in such schedule, in lieu of and in immediate succession the one to the other, shall not vacate his seat.

SCHEDULE (G).

Universities of [name the universities], election 18 .

I, A. B., [the christian and surnames of the elector in full, and his degree or other qualification to be here inserted,] do hereby declare that I have signed no other voting paper at this election, and I do hereby give my vote at this election for

And I nominate

C. D.,
E. F.,
G. H.,

or one of them, to deliver this voting paper at the poll.

Witness my hand this day of 18 .

(Signed) A. B., of [the elector's place of residence to be here inserted].

Signed in my presence by the said A. B., who is personally known to me, on the above-mentioned day of 18 , the name of , as the candidate voted for, having been previously filled in.

(Signed) J. N., of [the justice's or other officer's place of residence to be here inserted]
a Justice of the Peace for
(or as the case may be).

31 & 32 Vict., c. 49.

The Representation of the People (Ireland) Act, 1868.

Application of Act.

2. This Act shall apply to Ireland only, but shall not in anywise affect the election of members to serve in parliament for the borough of the University of Dublin.

No elector who has been employed for reward within six months of

8. No elector who, within six months before or during any election for any county, city, town, or borough, shall have been retained, hired, or employed for all or any of the purposes of the election for reward by or on behalf of any candidate at such election as agent, canvasser, clerk, messenger, or in any other like employment, shall be entitled

to vote at such election, and if he shall so vote he shall be an election to be entitled to vote.
guilty of a misdemeanour.

10. At every contested election for any county, city, town, or borough, unless some building or place belonging to the county, city, town, or borough is provided for that purpose, the returning officer shall, whenever it is practicable so to do, instead of erecting a booth, hire a building or room for the purpose of taking the poll : Rooms for taking polls to be hired wherever they can be obtained.

Where in any place there is any room the expense of maintaining which is payable out of any rates levied in such place, such room may, with the consent of the person or corporation having the control over the same, be used for the purpose of taking the poll at such place.*

11. Whereas it is expedient to amend the law relating to offices of profit, the acceptance of which from the Crown vacates the seats of members accepting the same, but does not render them incapable of being re-elected : Be it enacted, That where a person has been returned as a member to serve in parliament since the acceptance by him from the Crown of any office described in Schedule (E.) to this Act annexed, the subsequent acceptance by him from the Crown of any other office or offices described in such schedule, in lieu of and in immediate succession the one to the other, shall not vacate his seat. Members holding offices of profit from the Crown, as in Schedule (E.), not to vacate their seats on acceptance of another office.

12. It shall not be lawful for any candidate, or any one on his behalf, at any election for any city, town, or borough, except the *several boroughs of the county of the city of Cork*, county of the town of Galway, and county of the city of Limerick,† to pay any money on account of the conveyance of any voter to the poll, either to the voter himself or to any other person ; and if any such candidate, or any person on his behalf, shall pay any money on account of the conveyance of any voter to the poll, such payment shall be deemed to be an illegal payment within the meaning of "The Corrupt Practices Prevention Act, 1854." Payment of expenses of conveying voters in boroughs to the poll illegal.

13. No returning officer for any county, city, town, or borough, nor his deputy, nor any partner or clerk of either of them, shall act as agent for any candidate in the management or conduct of his election as a member to serve in parliament for such county, city, town or borough ; and if any returning officer, his deputy, the partner or clerk of either of them, shall so act, he shall be guilty of a misdemeanour. Returning officer, &c., acting as agent guilty of misdemeanour.

* As to the latter part of this section, see note to Scotch Reform Act, 1868, s. 26, *ante*, p. lxxiv.

† These words in italics are repealed by the Ballot Act, 1872.

31 & 32 Vict. c. 58.

Amendment of s. 34 of 30 & 31 Vict. c. 102. 18. Where a municipal borough forms part of a parliamentary borough the town clerk of such municipal borough shall be deemed to be town clerk within the meaning of 30 and 31 Vict. c. 102, s. 34.

The local authority within the meaning of the same section in boroughs where the town council is not the local authority shall be the justices of the peace of the petty-sessional division in which such borough is situate, and if such borough be situate in or comprise more than one petty-sessional division, then the justices in general or quarter sessions having jurisdiction over such borough or the greater part thereof in area.

The power of dividing their county into polling districts, and assigning to such district a polling place, vested in the justices of the peace by 30 & 31 Vict. c. 102, s. 34, may be exercised by such justices from time to time, and as often as they think fit, and the said power of dividing a county into polling districts shall be deemed to include the power of altering any polling districts.

Provision as to returning officer in case Parliamentary borough becomes municipal borough.

33. Whenever a borough returning a member or members to serve in parliament becomes a municipal borough, the authority of the person who may for the time being be acting as returning officer shall cease, and the mayor shall take his place, subject, nevertheless, to the repayment to such first-mentioned returning officer of any expenses properly incurred by him in the execution and duties of his office.

31 & 32 Vict. c. 65.

*An Act to amend the Law relating to the Use of Voting Papers in Elections for the Universities.**

[31st July, 1868.]

24 & 25 Vict. c. 53.

Whereas by an Act passed in the session holden in the twenty-fourth and twenty-fifth years of the reign of her present Majesty, chapter fifty-three, intituled "An Act to provide that votes at elections for the universities may be recorded by means of voting papers," it is provided that at the elections for burgesses to serve in parliament for the Universities of Oxford, Cambridge, and Dublin votes may be given by means of voting papers; but it is by the said Act provided that no voting paper shall be received or recorded unless the person tendering the same shall make the following declaration, which he shall sign at the foot or back thereof:

* See the Scotch Reform Act, 1868, s. 39, sub-sect. 4, as to the Scotch Universities, *ante*, p. lxxiv.

"I solemnly declare that I am personally acquainted with A. B. [the voter], and I verily believe that this is the paper by which he intends to vote pursuant to the provisions of the Universities Election Act."

And whereas by virtue of the Representation of the People Act, 1867, the said first-mentioned Act applies to every election of a member for the University of London :

And whereas it is expedient to amend the said first-mentioned Act so far as respects the said recited declaration :

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows :

1. From and after the passing of this Act, the said recited form of declaration shall not be required, and there shall be substituted in place thereof the form of declaration following : that is to say,

Repeal of
form of
declaration.

"I solemnly declare that I verily believe that this is the paper by which A. B. [the voter] intends to vote pursuant to the provisions of the 'Universities Election Acts, 1861 and 1868.'"

2. The second section of the said first-mentioned Act shall, in reference to the University of London, be construed as if the words "in the manner heretofore used" were omitted therefrom.

Amend-
ment of
sect. 2 of
first recited
Act.

3. A voting paper for the election of any burgess or member to serve in parliament for any university or university in respect of which the provisions of the said first-mentioned Act may for the time being be in force, may be signed by a voter being in one of the Channel Islands in the presence of the following officers ; that is to say,

Officers in
whose pre-
sence voting
papers may
be signed in
the Channel
Islands

I. In Jersey and Guernsey, of the bailiffs or any lieutenant bailiff, jurat, or judge d'instruction.

II. In Alderney, of the judge of Alderney, or any jurat.

III. In Sark, of the seneschal or deputy seneschal.

And for the purpose of certifying and attesting the signature of such voting paper, each of the said officers shall have all the powers of a justice of the peace under the first-mentioned Act, and a statement of the official quality of such officer shall be a sufficient statement of quality in pursuance of the provisions of the said Act.

IV. This Act may be cited for all purposes as the "Universities Elections Act, 1868," and the said first-mentioned Act and this Act may be cited together as "The Universities Election Acts, 1861 and 1868."

Short Title

32 & 33 Vict., c. 71.

Privilege of parliament not to prevent adjudication in bankruptcy. 120. If a person having privilege of parliament commit an act of bankruptcy he may be dealt with under this Act in like manner as if he had not such privilege.

Vacating of seat in House of Commons. 121. If a person, being a member of the Commons House of Parliament, is adjudged bankrupt, he shall be and remain during one year from the date of the order or adjudication incapable of sitting or voting in that House, unless within that time either the order is annulled or the creditors who prove debts under the bankruptcy are fully paid or satisfied.

Provided that such debts (if any), as are disputed by the bankrupt shall be considered, for the purpose of this section, as paid or satisfied if within the time aforesaid he enters into a bond, in such sum and with such sureties as the court approves, to pay the amount to be recovered in any proceeding for the recovery of or concerning such debts, together with any costs to be given in such proceedings.

Certificate of bankruptcy to be given by the Court to the Speaker. 122. If within the time aforesaid the order of adjudication is not annulled, and the debts of the bankrupt are not fully paid or satisfied as aforesaid, then the court shall, immediately after the expiration of that time, certify the same to the Speaker of the House of Commons, and thereupon the seat of such member shall be vacant.

Speaker to issue new writ. 123. Where the seat of a member so becomes vacant the Speaker during a recess of the House, whether by prorogation or by adjournment, shall forthwith, after receiving such certificate, cause notices thereof to be published in the London Gazette; and after the expiration of six days after such publication shall (unless the House has met before that day, or will meet on the day of the issue,) issue his warrant to the clerk of the crown to make out a new writ for electing another member in the room of the member whose seat has so become vacant.

Provisions of 24 Geo. 3, sess. 2. c. 26, extended to case of bankruptcy. 124. The powers of the Act of the twenty-fourth year of the reign of King George the Third, chapter twenty-six, "to repeal so much of two Acts made in the tenth and fifteenth years of the reign of His present Majesty as authorises the Speaker of the House of Commons to issue his warrant to the clerk of the crown for making out writs for the election of members to serve in parliament in the manner therein mentioned; and for substituting other provisions for the like purposes," so far as such powers enable the Speaker to nominate and appoint other persons, being members of the House of Commons, to issue warrants for the making out of new writs during the vacancy of the office of Speaker, or during his absence out of the realm, shall extend to enable him to make the like nomination and appointment for issuing warrants, under the like cir-

cumstances and conditions, for the election of a member in the room of any bankrupt member whose seat becomes vacant under this Act.

35 & 36 Vict. c. 33.

THE BALLOT ACT, 1872.

PART I.

PARLIAMENTARY ELECTIONS.

Procedure at Elections.

1. A candidate for election to serve in parliament for a Nomination of candidates for parliamentary elections. county or borough shall be nominated in writing. The writing shall be subscribed by two registered electors of such county or borough as proposer and seconder, and by eight other registered electors of the same county or borough as assenting to the nomination, and shall be delivered during the time appointed for the election to the returning officer by the candidate himself, or his proposer or seconder.

If at the expiration of one hour after the time appointed for the election no more candidates stand nominated than there are vacancies to fill up, the returning officer shall forthwith declare the candidates who may stand nominated to be elected, and return their names to the clerk of the crown in Chancery; but if at the expiration of such hour more candidates stand nominated than there are vacancies to be filled up, the returning officer shall adjourn the election and shall take a poll in manner in this Act mentioned.

A candidate may, during the time appointed for the election, but not afterwards, withdraw from his candidature by giving a notice to that effect, signed by him. to the returning officer: Provided, that the proposer of a candidate nominated in his absence out of the United Kingdom may withdraw such candidate by a written notice signed by him and delivered to the returning officer, together with a written declaration of such absence of the candidate. Withdrawal of candidate after having been nominated.

If after the adjournment of an election by the returning officer for the purpose of taking a poll one of the candidates nominated shall die before the poll has commenced, the returning officer shall, upon being satisfied of the fact of such death, countermand notice of the poll, and all the proceedings with reference to the election shall be com- Death of candidate after nomination and before poll.

menced afresh in all respects as if the writ had been received by the returning officer on the day on which proof was given to him of such death; provided that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermand of the poll.

Poll at elections.

2. In the case of a poll at an election the votes shall be given by ballot. The ballot of each voter shall consist of a paper (in this Act called a ballot paper) showing the names and description of the candidates. Each ballot paper shall have a number printed on the back, and shall have attached a counterfoil with the same number printed on the face. At the time of voting, the ballot paper shall be marked on both sides with an official mark, and delivered to the voter within the polling station, and the number of such voter on the register of voters shall be marked on the counterfoil, and the voter having secretly marked his vote on the paper, and folded it up so as to conceal his vote, shall place it in a closed box in the presence of the officer presiding at the polling station (in this Act called "the presiding officer") after having shown to him the official mark at the back.

Ballot paper when void.

Any ballot paper which has not on its back the official mark, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything except the said number on the back, is written or marked by which the voter can be identified, shall be void and not counted.

Proceedings after the poll.

After the close of the poll the ballot boxes shall be sealed up, so as to prevent the introduction of additional ballot papers, and shall be taken charge of by the returning officer, and that officer shall, in the presence of such agents, if any, of the candidates as may be in attendance, open the ballot boxes, and ascertain the result of the poll by counting the votes given to each candidate, and shall forthwith declare to be elected the candidates or candidate to whom the majority of votes have been given, and return their names to the clerk of the crown in Chancery. The decision of the returning officer as to any question arising in respect of any ballot paper shall be final, subject to reversal on petition questioning the election or return.

Equality of votes.

Where an equality of votes is found to exist between any candidates at an election for a county or borough, and the addition of a vote would entitle any of such candidates to be declared elected, the returning officer, if a registered elector of such county or borough, may give such additional vote, but shall not in any other case be entitled to vote at an election for which he is returning officer.

Offences at Elections.

3. Every person who,—
 - I. Forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the returning officer any nomination paper, knowing the same to be forged; or
 - II. Forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
 - III. Without due authority supplies any ballot paper to any person; or
 - IV. Fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in; or
 - V. Fraudulently takes out of the polling station any ballot paper; or
 - VI. Without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election;

Offences in respect of nomination papers, ballot papers, and ballot boxes.

shall be guilty of a misdemeanor, and be liable if he is a returning officer or an officer or clerk in attendance at a polling station, to imprisonment for any term not exceeding two years, with or without hard labour, and if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labour.

Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable.

Attempt to commit an offence.

In any indictment or other prosecution for an offence in relation to the nomination papers, ballot boxes, ballot papers and marking instruments at an election, the property in such papers, boxes, and instruments may be stated to be in the returning officer at such election, as well as the property in the counterfoils.

Property to be stated in indictment to be in returning officer.

4. Every officer, clerk, and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate, except for some purpose authorised by law, before the poll is closed, to any person any information as to the name or number on the register of voters of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark, and no such officer, clerk, or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted,

Infringement of secrecy.

or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station. Every officer, clerk, and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper. No person shall directly or indirectly induce any voter to display his ballot paper after he shall have marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

Punishment
for infringe-
ment of
secrecy

Every person who acts in contravention of the provisions of this section shall be liable, on summary conviction before two justices of the peace, to imprisonment for any term not exceeding six months, with or without hard labour.

Amendment of Law.

Division of
counties
into polling
districts.

5. The local authority (as hereinafter defined) of every county shall by order, as soon as may be practicable after the passing of this Act, divide such county into polling districts, and assign a polling place to each district, in such manner that, so far as is reasonably practicable, every elector resident in the county shall have a polling place within a distance not exceeding four miles from his residence, so, nevertheless, that a polling district need not in any case be constituted containing less than one hundred registered electors.

Division of
boroughs
into polling
places.

The local authority (as hereinafter defined) of every borough shall take into consideration the division of such borough into polling districts, and, if they think it desirable, by order, divide such borough into polling districts in such manner as they may think most convenient for taking the votes of the electors at a poll.

Orders and
reports
made by
local autho-
rities to be
sent to Sec-
retary of
State.

The local authority of every county and borough shall, on or before the first day of May one thousand eight hundred and seventy-three send to one of her Majesty's principal secretaries of state, to be laid by him before both Houses of Parliament, a copy of any order made by such authority in pursuance of this section, and a report, in such form as he may require, stating how far the provisions of this Act with respect to polling districts have been complied with in their county or borough; and if they make any order after the first day of May one thousand eight hundred and seventy-three, with respect to polling

districts or polling places in their county or borough, they shall send a copy of such order to the said Secretary of State, to be laid by him before both Houses of Parliament.

The local authority of a county or borough in this section means the authority having power to divide such county or borough into polling districts under section thirty-four of the Representation of the People Act, 1867, and any enactments amending that section; and such authority shall exercise the powers thereby given to them for the purposes of this section; and the provisions of the said section as to the local authority of a borough constituted by the combination of two or more municipal boroughs shall apply to a borough constituted by the combination of a municipal borough and other places, whether municipal boroughs or not; and in the case of a borough of which a town council is not the local authority, and which is not wholly situate within one petty sessional division, the justices of the peace for the county in which such borough or the larger part thereof in area is situate, assembled at some court of general or quarter sessions, or at some adjournment thereof, shall be the local authority thereof, and shall for this purpose have jurisdiction over the whole of such borough; and in the case of such borough and of a county, a court of general sessions shall be assembled within twenty-one days after the passing of the Act, and any such court may be assembled and adjourned from time to time for the purpose.

Definition
of local
authority.

No election shall be questioned by reason of any non-compliance with this section or any informality relative to polling districts or polling places, and any order made by a local authority in relation to polling districts or polling places shall apply only to lists of voters made subsequently to its date, and to registers of voters formed out of such lists, and to elections held after the time at which a register of voters so formed has come into force; Provided that where any such order is made between the first day of July and the first day of November in any year, and does not create any new division between two or more polling districts of any parish for which a separate poor rate is or can be made, such order shall apply to the register of voters which comes into force next after such order is made, and to elections held after that register so comes into force; and the clerk of the peace or town clerk, as the case may be, shall copy, print, and arrange the list of voters for the purpose of such register in accordance with such order.

Non-compliance with this section not to invalidate election. Orders of local authority to apply only to subsequent lists of voters and elections.

6. The returning officer at a parliamentary election may use, free of charge, for the purpose of taking the poll at such election, any room in a school receiving a grant out of moneys provided by parliament, and any room the expense of maintaining which is payable out of any local

Use of school and public room for poll

rate, but he shall make good any damage done to such room, and defray any expense incurred by the person or body of persons, corporate or unincorporate, having control over the same on account of its being used for the purpose of taking the poll as aforesaid.

The use of any room in an unoccupied house for the purpose of taking the poll shall not render any person liable to be rated or to pay any rate for such house.

Conclusive-
ness of regis-
ter of voters.

7. At an election for a county or borough, a person shall not be entitled to vote unless his name is on the register of voters for the time being in force for such county or borough, and every person whose name is on such register shall be entitled to demand and receive a ballot paper and to vote: Provided that nothing in this section shall entitle any person to vote who is prohibited from voting by any statute, or by the common law of parliament, or relieve such person from any penalties to which he may be liable for voting.

Duties of Returning and Election Officers.

General
powers and
duties of
returning
officer.

8. Subject to the provisions of this Act, every returning officer shall provide such nomination papers, polling stations, ballot boxes, ballot papers, stamping instruments, copies of register of voters and other things, appoint and pay such officers, and do such other acts and things as may be necessary for effectually conducting an election in manner provided by this Act.

Expenses of
election pay-
able like
polling
booths ex-
penses.

All expenses properly incurred by any returning officer in carrying into effect the provisions of this Act, in the case of any parliamentary election, shall be payable in the same manner as expenses incurred in the erection of polling booths at such election are by law payable.

Sheriff may
appoint de-
puty.

Where the sheriff is returning officer for more than one county as defined for the purposes of parliamentary elections, he may, without prejudice to any other power, by writing under his hand, appoint a fit person to be his deputy for all or any of the purposes relating to an election in any such county, and may, by himself or such deputy, exercise any powers and do any things which the returning officer is authorised or required to exercise or do in relation to such election. Every such deputy, and also any under sheriff, shall, in so far as he acts as returning officer, be deemed to be included in the term returning officer in the provisions of this Act, relating to parliamentary elections, and the enactments with which this part of this Act is to be construed as one.

Liability of
deputy.

Keeping of
order in
station.

9. If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any con-

stable in or near that station, or any other person authorised in writing by the returning officer to remove him ; and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station during the day.

Any person so removed as aforesaid, if charged with the commission in such station of any offence, may be kept in custody until he can be brought before a justice of the peace.

Person apprehended may be kept in custody.

Provided that the powers conferred by this section shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station from having an opportunity of voting at such station.

But voter must have opportunity of voting.

10. For the purpose of the adjournment of the poll, and of every other enactment relating to the poll, a presiding officer shall have the power by law belonging to a deputy returning officer ; and any presiding officer and any clerk appointed by the returning officer to attend at a polling station shall have the power of asking the questions and administering the oath authorised by law to be asked of and administered to voters, and any justice of the peace and any returning officer may take and receive any declaration authorised by this Act to be taken before him.

Powers of presiding officer and administration of oaths, &c.

11. Every returning officer, presiding officer, and clerk who is guilty of any wilful misfeasance or any wilful act or omission in contravention of this Act shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act, or omission a penal sum not exceeding one hundred pounds.

Liability of officers for misconduct.

Section fifty of the Representation of the People Act, 1867, (which relates to the action of any returning officer, or his partner or clerk, as agent for a candidate,) shall apply to any returning officer or officer appointed by him in pursuance of this Act, and to his partner or clerk.

30 & 31 Vict. c. 102, to apply to returning officers, their partners and clerks.

Miscellaneous.

12. No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state for whom he has voted.

Prohibition of disclosure of vote.

13. No election shall be declared invalid by reason of a non-compliance with the rules contained in the first schedule to this Act, or any mistake in the use of the forms in the second schedule to this Act, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in the body of this Act, and that such non-compliance or mistake did not affect the result of the election.

Non-compliance with rules.

14. Where a parliamentary borough and municipal Use of

municipal
ballot boxes,
&c., for par-
liamentary
election, and
vice versa.

borough occupy the whole or any part of the same area, any ballot boxes or fittings for polling stations and compartments provided for such parliamentary borough or such municipal borough may be used in any municipal or parliamentary election in such borough free of charge, and any damage other than reasonable wear and tear caused to the same shall be paid as part of the expenses of the election at which they are so used.

Construc-
tion of Act.

15. This part of this Act shall, so far as is consistent with the tenor thereof, be construed as one with the enactments for the time being in force relating to the representation of the people, and to the registration of persons entitled to vote at the election of members to serve in parliament, and with any enactments otherwise relating to the subject matter of this part of this Act, and terms used in this part of this Act shall have the same meaning as in the said enactments; and in construing the said enactments relating to an election or to the poll or taking the votes by poll, the mode of election and of taking the poll established by this Act shall for the purposes of the said enactments be deemed to be substituted for the mode of election or poll, or taking the votes by poll referred to in the said enactments; and any person applying for a ballot paper under this Act shall be deemed "to tender his vote," or "to assume to vote," within the meaning of the said enactments; and any application for a ballot paper under this Act, or expressions relative thereto, shall be equivalent to "voting" in the said enactments and any expressions relative thereto; and the term "polling booth" as used in the said enactments shall be deemed to include a polling station; and the term "proclamation" as used in the said enactments shall be deemed to include a public notice given in pursuance of this Act.

Meaning of
expression
"tender his
vote," "as-
sume to
vote," "poll-
ing booths,"
"proclama-
tion."

Application of Part of Act to Scotland.

Alterations
for applica-
tion of
Part I. to
Scotland.

16. This part of this Act shall apply to Scotland, subject to the following provisions:—

- I. The expression of "crime and offence" shall be equivalent to the expression "misdemeanor," and shall be substituted therefor:
- II. All offences under this Act for which any person may be punished on summary conviction shall be prosecuted before the sheriff under the provisions of "The Summary Procedure Act, 1864;" and all jurisdictions, powers, and authorities necessary for that purpose are hereby conferred on sheriffs:
- III. The expression "sheriff" shall include sheriff substitute.
- IV. The provisions of this Act relating to the division

of counties and boroughs into polling districts shall not apply to Scotland :

- V. The ballot boxes, ballot papers, stamping instruments, and other requisites for a parliamentary election shall be provided and paid for in the same manner as polling rooms or booths under the fortieth section of the Act of the second and third years of the reign of King William the Fourth, chapter sixty-five, entitled "An Act to amend the Representation of the People of Scotland," and the reasonable remuneration of presiding officers, assistants, and clerks employed by the returning officer at such an election, and all other expenses properly incurred by the returning officer, and by sheriff clerks and town clerks, in carrying into effect the provisions of this Act, shall be paid by the candidates : Provided always, that if any person shall be proposed as a candidate without his consent the person so proposing him shall be liable to defray his share of all those expenses in like manner as if he had been a candidate himself : Provided also, that the fee to be paid to each presiding officer shall in no case exceed the sum of three guineas per day, and the fee to be paid to each assistant to the returning officer shall not exceed two guineas per day, and the fee to be paid to each clerk shall not exceed one guinea per day.

Expenses of election.

Application of Part of Act to Ireland.

17. This part of this Act shall apply to Ireland, subject to the following modifications :—
- I. The expression "clerk of the crown in chancery" shall mean the clerk of the crown and hanaper in Ireland :
 - II. The preceding provisions of this part of this Act with respect to the division of counties and boroughs into polling districts shall not extend to Ireland :
 - III. In the construction of the preceding divisions of this part of this Act as applying to Ireland, section thirteen of "The Representation of the People (Ireland) Act, 1868," shall be substituted for section fifty of the "The Representation of the People Act 1867," wherever in such provisions the said last-mentioned section occurs. The provision contained in the sixth section of this Act providing for the use of school rooms free of charge, for the purpose of taking the poll at elections, shall not apply to any school adjoining or adjacent to any church or other place of worship, nor to any school connected with a nunnery or other religious establishment :

Alterations for application of Part I. to Ireland.

Section 13 of Reform Act, (Ireland) 1868, to be substituted for s. 50 of Reform Act, 1867.

Provision as to use of school rooms.

Expenses incurred by returning officer.

- IV. No returning officer shall be entitled to claim, or be paid any sum or sums of money for the erection of polling booths or stations and compartments other than the sum or sums actually and necessarily incurred and paid by him in reference to the same, any statute or statutes to the contrary now in force notwithstanding, nor shall the expenses of providing sufficient polling stations or booths and compartments at every polling place exceed the sum or sums now given and allowed by statute in Ireland.

Provisions as to polling districts and polling places in Ireland.

Special sessions to be appointed for dividing counties into polling districts and appointing polling places.

Appointment of special sessions to be notified to clerk of the peace and advertised in newspapers.

Clerk of the peace to send notice of special sessions to justices.

Justices to divide counties into polling districts and to appoint polling places.

Petty sessions court-houses to be

18. With respect to polling districts and polling places in Ireland, the following regulations shall have effect; that is to say,

- I. The Lord Lieutenant, by and with the advice of the Privy Council in Ireland, shall appoint special sessions to be held by the chairman of quarter sessions and justices of the peace having jurisdiction in each county or riding of a county in Ireland, at such places and times before the first day of November next after the passing of this Act as shall seem fit for the purpose of dividing such county or riding into polling districts and appointing polling places for such districts :
- II. The clerk of the said Privy Council shall cause each such appointment to be notified to the clerk of the peace of the county to which the same relates, and shall cause notice of the same to be published twice in each of two consecutive weeks in one or more newspapers usually circulated in such county, and once in the Dublin Gazette :
- III. The clerk of the peace of each county in Ireland shall, within five days after the receipt of such notifications as aforesaid, send a written or printed notice of the same to the chairman and to every justice of the peace having jurisdiction within the county or riding to which the same relates :
- IV. The chairman of quarter sessions and the justices of the peace having jurisdiction in any county or riding assembled at such special sessions appointed in manner aforesaid, or at any adjournment of the same before the first day of December next after the passing of this Act, shall make an order dividing such county or riding of a county into polling districts, and appointing in each such polling district a place (in this section referred to as a "polling place") for taking the poll at contested elections of members to serve in parliament for such county :
- V. Every such division shall be made in such manner so that, as far as practicable, every building or place in such county in which petty sessions are at the time

of the passing of this Act held shall be a polling place : Provided always, that where it appears to the chairman and justices assembled at special sessions that, for the purpose of affording full facilities for taking the poll at contested elections, there should be polling places in addition to such buildings or places where petty sessions are held as aforesaid, they shall appoint so many polling places in addition to such buildings or places as they may think necessary, and constitute a polling district for each such polling place :

used for polling places, but additional polling places may be appointed.

- VI. Every such order shall specify the barony or baronies, half barony or half baronies, townland or townlands, parish or parishes, and places constituting each such polling district :
- VII. A copy of every such order shall forthwith be sent by the clerk of the peace for such county to the clerk of the said Privy Council, who thereupon shall submit the same for confirmation by the Lord Lieutenant and Privy Council in Ireland, in the manner by this Act provided, and such order shall not be of any validity until the same has been so confirmed :
- VIII.* Notice of the intended confirmation of any such order shall be given by the clerk of the said Privy Council at least one month before the day fixed for such confirmation by the publication of such notice and order in one or more newspapers circulating within such county or riding to which the order has reference :
- IX.* It shall be lawful for the Lord Lieutenant and Privy Council, on the day fixed for the intended confirmation of any such order, to confirm the same as it stands, or with such variation, alteration, or modification as may seem fit : Provided always, that where any person is dissatisfied with any such order it shall be lawful for such person, within fourteen days after the publication of the notice of the intended confirmation of such order, to appeal against the same, and such appeal shall be in writing, stating the grounds thereof, and shall be signed by such person, and shall within such time be lodged with the Clerk of the Privy Council ; and it shall be lawful for the Lord Lieutenant and Privy Council previous to the confirmation of any such order, to hear and determine such appeal against the same, and to make such order as to the costs of such appeal as may seem meet :
- X.* When any such order has been confirmed as aforesaid

Polling districts to be specified in order.

Order to be confirmed by Lord Lieutenant.

Day for confirmation to be advertised.

Order may be appealed against.

Order when confirmed to

* These sub-sections are amended by 36 Vict. c. 2, s. 1.

be sent to clerk of the peace and advertised.

27 & 28 Vict. c. 22, to apply to orders made under this Act.

Orders not to apply to elections held before new register is in force.

Form of notices, &c., relating to registration.

Appointment of additional

said, the clerk of the said Privy Council shall transmit a copy of the same to the clerk of the peace of the county to which the same relates, and shall cause the same to be published once in the Dublin Gazette, and once in the newspaper in which the notice of intended confirmation was published.

XI.* The provisions of the Act of the session of the twenty-seventh and twenty-eighth years of the reign of Her present Majesty, chapter twenty-two, for ascertaining the voters in the new or altered polling districts referred to in the ninth section of the said Act, and for making separate lists of voters, and otherwise in relation thereto, shall extend and apply to every case in which any order in relation to any county has been confirmed under the authority of this section, in like manner as if such sections were herein re-enacted, and the polling districts to which the same refer or apply had been polling districts constituted under the authority of this section; and the register of voters in force in such county at the time of confirming such order as amended by the printed books given into the custody of the sheriff of such county in manner by the said Act provided, and the said printed books shall be the register of persons entitled to vote at any election of a member or members to serve in parliament which shall take place in and for such county until the first day of January next after the giving of the said books as aforesaid: Provided always, that in the construction of the said provisions, the terms "the passing of the Act" and the "said Act" shall respectively be construed to mean the confirming of any order made under the authority of this section and this Act:

XII. At any election of a member or members to serve in parliament for any county to which any such order relates held after the confirming of any such order and before the register of voters to be formed subsequently to the date of the confirming of such order under the provisions of this section shall be in force, the poll shall be taken as if no such order had been made:

XIII. All precepts, notices, and forms relating to the registration of voters shall be framed and expressed in such manner and form as may be necessary for the carrying the provisions of this Act into effect:

XIV. When the chairman of quarter sessions and justices of the peace having jurisdiction in any county or riding in Ireland, assembled at any

* This sub-section is amended by 36 Vict. c. 2, s. 2.

general or quarter sessions in any division of such county or riding, are of opinion that for the purpose of affording further facilities for polling at contested elections there should be within such district polling places in addition to the places appointed in manner aforesaid, they may by resolution determine that at the next general or quarter sessions in such division of such county the necessity for such additional polling places shall be considered by the chairman and justices assembled at the same :

- XV. The clerk of the peace of such county shall, within five days after the making of such resolution, send a written or printed copy of the same to the chairman and to every justice of the peace having jurisdiction within the county to which the same relates, and shall cause a copy of such resolution to be published twice in each of two consecutive weeks in some newspaper circulated in such county. Resolutions as to additional polling places to be sent to justices and advertised.
- XVI. The said chairman and justices assembled at such general or quarter sessions holden next after the making of such resolution shall consider whether additional polling places are necessary, and if they are of such opinion they may, by an order to be made in like manner and subject to the same provisions as to the making, confirming, and taking effect of the same as are in this section contained in relation to orders to be made at special sessions under the authority of the same, appoint such other places to be polling places as they shall think fit, and shall constitute polling districts for such polling places : Resolution as to additional polling places, how to be carried out.
- XVII. No election shall be questioned by reason of any polling district not having been constituted in conformity with the provisions of this Act, or by reason of any informality relative to any polling election. Non-compliance with this section not to affect election.
- XVIII. When any day fixed for taking the poll at any election is the day fixed for the holding of the petty sessions court at any polling place, the court shall stand *ipso facto* adjourned till the next day, which shall in that case be the legal day for holding said court, and if that day be a Sunday or legal holiday, till the next day : Petty sessions to be adjourned over day fixed for poll.
- XIX. The term "the Lord Lieutenant" in this section shall mean the Lord Lieutenant of Ireland and the lords justices or other chief governors or governor of Ireland for the time being, and the term "chairman of quarter sessions" in this section shall include any person duly appointed to do the duty of such chairman during his sickness or absence. Meaning of "Lord Lieutenant" and "Chairman of quarter sessions."

Amendment
of law as to
voting in
wards in
certain
boroughs.

19.* Where the name of any person is required to be inserted in any list of voters for any ward of any city, town, or borough under the provisions of section seven of the Act passed in the session of parliament held in the thirteenth and fourteenth years of the reign of Her present Majesty, chapter sixty-eight, as qualified in respect of any property qualification, or as the occupier of any lands, tenements, or hereditaments situate in whole or in part beyond the limits of such ward, then and in every such case the names so required to be inserted shall be placed in alphabetical order in a separate part of such list, to be styled "the list of rural or out voters of such ward," and the property, lands, tenements, and hereditaments in respect of which such person is qualified as aforesaid shall for the purposes of the said Act and the Acts amending the same, in relation to the providing of booths and compartments within each ward of any city, town, or borough, and the voting therein of persons entitled to vote in respect of any such qualifications aforesaid, be deemed to constitute a separate ward: Provided always, that the name of any such person shall not be placed in such separate list if such person shall, in writing under his hand, object thereto, and if such objection is delivered to such clerk of the peace on or before the twenty-fifth day of August next preceding the making of such list under the provisions aforesaid, and in such case in relation to such person the provisions of this section shall not apply.

PART II.

MUNICIPAL ELECTIONS.

Application
to municipal
election of
enactments
relating to
the poll at
parliamentary
elections.

20. The poll at every contested municipal election shall, so far as circumstances admit, be conducted in the manner in which the poll is by this Act directed to be conducted at a contested parliamentary election, and, subject to the modifications expressed in the schedules annexed hereto, such provisions of this Act and of the said schedules as relate to or are concerned with a poll at a parliamentary election shall apply to a poll at a contested municipal election: Provided as follows:

- I. The term "returning officer" shall mean the mayor or other officer who, under the law relating to municipal elections, presides at such elections:
- II. The term "petition questioning the election or return" shall mean any proceeding in which a municipal election can be questioned:
- III. The mayor shall provide everything which in the case of a parliamentary election is required to be

* This section is amended by 36 Vict. c. 2, s. 4.

provided by the returning officer for the purpose of a poll :

- IV. All expenses shall be defrayed in manner provided by law with respect to the expenses of a municipal election :
- V. No return shall be made to the Clerk of the Crown in Chancery :
- VI. Nothing in this Act shall be deemed to authorise the appointment of any agents of a candidate in a municipal election, but if in the case of a municipal election any agent of a candidate is appointed, and a notice in writing of such appointment is given to the returning officer, the provisions of this Act with respect to agents of candidates shall, so far as respects such agent, apply in the case of that election :
- VII. The provisions of this Act with respect to—
 - (a.) The voting of a returning officer ; and
 - (b.) The use of a room for taking a poll ; and
 - (c.) The right to vote of persons whose names are on the register of voters ;

shall not apply in the case of a municipal election.

A municipal election shall, except in so far as relates to the taking of the poll in the event of its being contested, be conducted in the manner in which it would have been conducted if this Act had not passed.

21. Assessors shall not be elected in any ward of any municipal borough, and a municipal election need not be held before the assessors or their deputies, but may be held before the mayor, alderman, or other returning officer only.

Application of Part of Act to Scotland.

22. This part of this Act shall apply to Scotland, subject to the following provisions :—

- I. The term “mayor” shall mean the provost or other chief magistrate of a municipal borough, as defined by this Act :
- II. All municipal elections shall be conducted in the same manner in all respects in which elections of councillors in the royal burghs contained in schedule C. to the Act of the session of the third and fourth years of the reign of King William the Fourth, chapter seventy-six, intituled “An Act to alter and amend the laws for the election of the Magistrates and Councillors of the Royal Burghs in Scotland,” are directed to be conducted by the Acts in force at the time of the passing of this Act as amended by this Act ; and all such Acts shall apply to such elections accordingly.

Alterations for application of Part II. to Scotland.

Application of part of Act to Ireland.

Alterations
for applica-
tion of
Part II. to
Ireland.

23. This part of this Act shall apply to Ireland, with the following modifications:—

22 Vic. c. 35.

I. The term "mayor" shall include the chairman of commissioners, chairman of municipal commissioners, chairman of town commissioners, and chairman of township commissioners :

II. The provisions of "The Municipal Corporation Act, 1859," following ; that is to say, section five and section six, and section seven except so much thereof as relates to the form of nomination papers, and section eight, except so much thereof as relates to assessors, shall extend and apply to every municipal borough in Ireland, and shall be substituted for any provisions in force in relation to the nomination at municipal elections : Provided always, that the term "councillor" in these sections shall for the purposes of this section include alderman, commissioner, municipal commissioner, town commissioner, township commissioner, or assessor of any municipal borough.

PART III.

PERSONATION.

Definition
of personation.

24. The following enactments shall be made with respect to personation at parliamentary and municipal elections :

A person shall for all purposes of the laws relating to parliamentary and municipal elections be deemed to be guilty of the offence of personation who at an election for a county or borough, or at a municipal election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead or of a fictitious person, or who having voted once at any such election applies at the same election for a ballot paper in his own name.

Punishment
of personation.

The offence of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, shall be a felony, and any person convicted thereof shall be punished by imprisonment for a term not exceeding two years together with hard labour. It shall be the duty of the returning officer to institute a prosecution against any person whom he may believe to have been guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, at the election for which he is returning officer, and the costs and expenses of the prosecutor and the witnesses in such case, together with compensation for their trouble and loss of time

shall be allowed by the court in the same manner in which courts are empowered to allow the same in cases of felony.

The provisions of the Registration Acts, specified in the third schedule to this Act, shall in England and Ireland respectively apply to personation under this Act in the same manner as they apply to a person who knowingly personates and falsely assumes to vote in the name of another person as mentioned in the said Acts.

Provisions of 6 Vict. c. 18, ss. 85-89, and of 13 & 14 Vict. c. 69, ss. 92-96 apply to personation under this

The offence of personation shall be deemed to be a corrupt practice within the meaning of the Parliamentary Elections Act, 1868.

If, on the trial of any election petition questioning the election or return for any county or borough, any candidate is found by the report of the judge by himself or his agents to have been guilty of personation, or by himself or his agents to have aided, abetted, counselled, or procured the commission at such election of the offence of personation by any person, such candidate shall be incapable of being elected or sitting in parliament for such county or borough during the parliament then in existence.

Candidate guilty of personation incapable of being elected.

25. Where a candidate, on the trial of an election petition claiming the seat for any person, is proved to have been guilty, by himself or by any person on his behalf, of bribery, treating, or undue influence in respect of any person who voted at such election, or where any person retained or employed for reward by or on behalf of such candidate for all or any of the purposes of such election, as agent, clerk, messenger, or in any other employment, is proved on such trial to have voted at such election, there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to such candidate one vote for every person who voted at such election and is proved to have been so bribed, treated, or unduly influenced, or so retained or employed for reward as aforesaid.

Vote to be struck off for bribery, treating, or undue influence.

26. This part of this Act shall apply to Scotland, subject to the following provision :—

The offence of personation shall be deemed to be a crime and offence, and the rules of the law of Scotland with respect to apprehension, detention, precognition, commitment, and bail shall apply thereto, and any person accused thereof may be brought to trial in the court of justiciary, whether in Edinburgh or on circuit, at the instance of the Lord Advocate, or before the sheriff court, at the instance of the procurator fiscal.

Alterations in Act as applying to Scotland.

27. This part of this Act, so far as regards parliamentary elections, shall be construed as one with "The Parliamentary Elections Act, 1868," and shall apply to an election for a university or combination of universities.

Construction of part of Act.

PART IV.

MISCELLANEOUS.

- Effect of schedules.** 28. The schedules to this Act, and the notes thereto, and directions therein, shall be construed and have effect as part of this Act.
- Definitions.** 29. In this Act—
- "Municipal borough:"** The expression "municipal borough" means any place for the time being subject to the Municipal Corporation Acts, or any of them :
- "Municipal Corporation Acts:"** The expression "Municipal Corporation Acts" means—
- (a.) As regards England, the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to provide for the regulation of municipal corporations in England and Wales," and the Acts amending the same :
- (b.) As regards Scotland, the Act of the session of the third and fourth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to alter and amend the laws for the election of Magistrates and Councillors of the Royal Burghs in Scotland," and the Act of the same session, chapter seventy-seven, intituled "An Act to provide for the appointment and election of Magistrates and Councillors for the several Burghs and Towns of Scotland which now return or contribute to return Members to Parliament, and are not Royal Burghs," and the Act of the session of the thirteenth and fourteenth years of the reign of her present Majesty, chapter thirty-three, intituled "An Act to make more effectual provision for regulating the Police of Towns and populous Places in Scotland, and for paving, draining, cleansing, lighting, and improving the same;" and "The General Police and Improvement (Scotland) Act, 1862," and any Acts amending the same :
- (c.) As regards Ireland, the Act of the session of the third and fourth years of the reign of her present Majesty, chapter one hundred and eight, intituled "An Act for the Regulation of Municipal Corporations in Ireland," the Act of the ninth year of George the Fourth, chapter eighty-two, The Towns Improvement (Ireland) Act, 1854, and every local and personal Act providing for the election of commissioners in any towns or places for purposes similar to the purposes of the said Acts.
- "Municipal elections."** The expression "municipal election" means—
- (a.) As regards England, an election of any person to

serve the office of councillor, auditor, or assessor of any municipal borough, or of councillor for a ward of a municipal borough; and

(b.) As regard Scotland, an election of any person to serve the office of councillor or commissioner of any municipal borough, or of a ward or district of any municipal borough:

(c.) As regards Ireland, an election of any person to serve the office of alderman, councillor, commissioner, municipal commissioner, town commissioner, township commissioner, or assessor of any municipal borough.

30. This Act shall apply to any parliamentary or municipal election which may be held after the passing thereof. Application of Act.

31. Nothing in this Act, except Part III. thereof, shall apply to any election for a university or combination of universities. Savings.

Repeal.

32. The Acts specified in the fourth, fifth, and sixth schedules to this Act, to the extent specified in the third column of those schedules, and all other enactments inconsistent with this Act, are hereby repealed. Repeal of Acts in schedules.

Provided that this repeal shall not affect—

(a.) Anything duly done or suffered under any enactment hereby repealed; or

(b.) Any right or liability acquired, accrued, or incurred under any enactment hereby repealed; or

(c.) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; or

(d.) Any investigation, legal proceeding, or remedy in respect of any such right, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding, and remedy may be carried on as if this Act had not passed.

33. This Act may be cited as The Ballot Act, 1872, and shall continue in force till the thirty-first day of December one thousand eight hundred and eighty, and no longer, unless parliament shall otherwise determine; and on the said day the Acts in the fourth, fifth, and sixth schedules shall be thereupon revived; provided that such revival shall not affect any act done, any rights acquired, any liability or penalty incurred, or any proceeding pending under this Act, but such proceeding shall be carried on as if this Act had continued in force. Short title.

SCHEDULES.

FIRST SCHEDULE.

PART I.

RULES FOR PARLIAMENTARY ELECTIONS.

Election.

Returning
officer to
give public
notice of
election.

1. The returning officer shall, in the case of a county election, within two days after the day on which he receives the writ, and in the case of a borough election, on the day on which he receives the writ or the following day, give public notice, between the hours of nine in the morning and four in the afternoon, of the day on which and the place at which he will proceed to an election, and of the time appointed for the election, and of the day on which the poll will be taken in case the election is contested, and of the time and place at which forms of nomination papers may be obtained, and in the case of a county election shall send one of such notices by post, under cover, to the postmaster of the principal post office of each polling place in the county, endorsed with the words, "Notice of election," and the same shall be forwarded free of charge; and the postmaster receiving the same shall forthwith publish the same in the manner in which post office notices are usually published.

On what day
election to be
held.

2. The day of election shall be fixed by the returning officer as follows; that is to say, in the case of an election for a county or a district borough not later than the ninth day after the day on which he receives the writ, with an interval of not less than three clear days between the day on which he gives the notice and the day of election; and in the case of an election for any borough other than a district borough not later than the fourth day after the day on which he receives the writ, with an interval of not less than two clear days between the day on which he gives the notice and the day of election.

At what
place elec-
tion to be
held.

3. The place of election shall be a convenient room situate in the town in which such election would have been held if this Act had not passed, or where the election would not have been held in a town, then situate in such town in the county as the returning officer may from time to time determine as being in his opinion most convenient for the electors.

4. The time appointed for the election shall be such two hours between the hours of ten in the forenoon and three in the afternoon as may be appointed by the returning officer, and the returning officer shall attend during those two hours and for one hour after. At what time election to be held.

5. Each candidate shall be nominated by a separate nomination paper, but the same electors or any of them may subscribe as many nomination papers as there are vacancies to be filled, but no more. Each candidate to be nominated separately.

6. Each candidate shall be described in the nomination paper in such manner as in the opinion of the returning officer is calculated to sufficiently identify such candidate; the description shall include his names, his abode, and his rank, profession, or calling, and his surname shall come first in the list of his names. No objection to a nomination paper on the ground of the description of the candidate therein being insufficient, or not being in compliance with this rule, shall be allowed or deemed valid, unless such objection is made by the returning officer, or by some other person, at or immediately after the time of the delivery of the nomination paper. Description of candidate in nomination paper. Objections to validity of nomination paper.

7. The returning officer shall supply a form of nomination paper to any registered elector requiring the same during such two hours as the returning officer may fix, between the hours of ten in the morning and two in the afternoon on each day intervening between the day on which notice of the election was given and the day of the election, and during the time appointed for the election; but nothing in this Act shall render obligatory the use of a nomination paper supplied by the returning officer, so, however, that the paper be in the form prescribed by this Act. Form of nomination paper to be supplied by returning officer.

8. The nomination papers shall be delivered to the returning officer at the place of election during the time appointed for the election; and the candidate nominated by each nomination paper, and his proposer and seconder, and one other person selected by the candidate, and no person other than aforesaid, shall, except for the purpose of assisting the returning officer, be entitled to attend the proceedings during the time appointed for the election. Who may attend proceedings at nomination.

9. If the election is contested the returning officer shall, as soon as practicable, after adjourning the election, give public notice of the day on which the poll will be taken, and of the candidates described as in their respective nomination papers, and of the names of the persons who subscribe the nomination paper of each candidate, and of the order in which the names of the candidates will be printed in the ballot paper, and, in the case of an election for a county, deliver to the postmaster of the principal post office of the town in which is situate the place of election a Public notices to be given if election contested.

paper, signed by himself, containing the names of the candidates nominated, and stating the day on which the poll is to be taken, and the postmaster shall forward the information contained in such paper by telegraph, free of charge, to the several postal telegraph offices situate in the county for which the election is to be held, and such information shall be published forthwith at each such office in the manner in which post office notices are usually published.

Public notice to be given if any candidate be withdrawn.

10. If any candidate nominated during the time appointed for the election is withdrawn in pursuance of this Act, the returning officer shall give public notice of the name of such candidate, and the names of the persons who subscribed the nomination paper of such candidate, as well as of the candidates who stood nominated or were elected.

Names of candidates proposed to be forthwith placarded.

11. The returning officer shall, on the nomination paper being delivered to him, forthwith publish notice of the name of the person nominated as a candidate, and of the names of his proposer and seconder, by placarding or causing to be placarded the names of the candidate and his proposer and seconder in a conspicuous position outside the building in which the room is situate appointed for the election.

Names of candidates nominated to be inserted in ballot papers.

12. A person shall not be entitled to have his name inserted in any ballot paper as a candidate unless he has been nominated in manner provided by this Act, and every person whose nomination paper has been delivered to the returning officer during the time appointed for the election shall be deemed to have been nominated in manner provided by this Act, unless objection be made to his nomination paper by the returning officer or some other person before the expiration of the time appointed for the election or within one hour afterwards.

Objections to validity of nomination papers to be decided by returning officer.

13. The returning officer shall decide on the validity of every objection made to a nomination paper, and his decision, if disallowing the objection, shall be final; but if allowing the same, shall be subject to reversal on petition questioning the election or return.

The Poll.

On what day poll to be taken.

14. The poll shall take place on such day as the returning officer may appoint, not being in the case of an election for a county or a district borough less than two nor more than six clear days, and not being in the case of an election for a borough other than a district borough more than three clear days after the day fixed for the election.

Polling stations to be provided.

15. At every polling place the returning officer shall provide a sufficient number of polling stations for the accommodation of the electors entitled to vote at such polling place, and shall distribute the polling stations amongst those electors in such manner as he thinks most

convenient, provided that in a district borough there shall be at least one polling station at each contributory place of such borough.

16. Each polling station shall be furnished with such number of compartments, in which the voters can mark their votes screened from observation, as the returning officer thinks necessary, so that at least one compartment be provided for every one hundred and fifty electors entitled to vote at such polling station.

Polling stations to be furnished with compartments.

17. A separate room or separate booth may contain a separate polling station, or several polling stations may be constructed in the same room or booth.

Separate room may contain separate polling station.

18. No person shall be admitted to vote at any polling station except the one allotted to him.

Where voter to vote.

19. The returning officer shall give public notice of the situation of polling stations and the description of voters entitled to vote at each station, and of the mode in which electors are to vote.

Notice to be given of how and where voters to vote

20. The returning officer shall provide each polling station with materials for voters to mark the ballot papers, with instruments for stamping thereon the official mark, and with copies of the register of voters, or such part thereof as contains the names of the voters allotted to vote at such station. He shall keep the official mark secret, and an interval of not less than seven years shall intervene between the use of the same official mark at elections for the same county or borough.

What is to be provided at each polling station.

21. The returning officer shall appoint a presiding officer to preside at each station, and the officer so appointed shall keep order at his station, shall regulate the number of electors to be admitted at a time, and shall exclude all other persons except the clerks, the agents of the candidates, and the constables on duty.

Presiding officer to be appointed for each polling station.

22. Every ballot paper shall contain a list of the candidates described as in their respective nomination papers, and arranged alphabetically in the order of their surnames, and (if there are two or more candidates with the same surname) of their other names: it shall be in the form set forth in the second schedule to this Act or as near thereto as circumstances admit, and shall be capable of being folded up.

Ballot paper to contain list of candidates arranged alphabetically.

23. Every ballot box shall be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked. The presiding officer at any polling station, just before the commencement of the poll, shall show the ballot box empty to such persons, if any, as may be present in such station, so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it

Construction of ballot box.

in his view for the receipt of ballot papers, and keep it so locked and sealed.

Ballot paper
how to be
marked.

24. Immediately before a ballot paper is delivered to an elector, it shall be marked on both sides with the official mark, either stamped or perforated, and the number, name, and description of the elector as stated in the copy of the register shall be called out, and the number of such elector shall be marked on the counterfoil, and a mark shall be placed in the register against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received.

How elector
shall deal
with ballot
paper.

25. The elector, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station, and there mark his paper, and fold it up so as to conceal his vote, and shall then put his ballot paper, so folded up, into the ballot box; he shall vote without undue delay, and shall quit the polling station as soon as he has put his ballot paper into the ballot box.

Vote of person
incapacitated
by physical
cause or
otherwise,
how to be
given.

26. The presiding officer, on the application of any voter who is incapacitated by blindness or other physical cause from voting in manner prescribed by this Act, or (if the poll be taken on Saturday) of any voter who declares that he is of the Jewish persuasion, and objects on religious grounds to vote in manner prescribed by this Act, or of any voter who makes such a declaration as herein-after mentioned that he is unable to read, shall, in the presence of the agents of the candidates, cause the vote of such voter to be marked on a ballot paper in manner directed by such voter, and the ballot paper to be placed in the ballot box, and the name and number on the register of voters of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list, in this Act called "the list of votes marked by the presiding officer."

Declaration
of voter
unable to
read.

The said declaration, in this Act referred to as "the declaration of inability to read," shall be made by the voter at the time of polling, before the presiding officer, who shall attest it in the form herein-after mentioned, and no fee stamp, or other payment shall be charged in respect of such declaration, and the said declaration shall be given to the presiding officer at the time of voting.

Tendered
votes, how
to be dealt
with.

27. If a person, representing himself to be a particular elector named on the register, applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly answering the questions and taking the oath permitted by law to be asked of and to be administered to voters at the time of polling, be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (in this Act called a tendered ballot paper) shall be of

a colour different from the other ballot papers, and instead of being put into the ballot box shall be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of voters, and set aside in a separate packet, and shall not be counted by the returning officer. And the name of the voter and his number on the register shall be entered on a list, in this Act called the tendered votes list.

28. A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper, may, on delivering to the presiding officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in this Act called a spoilt ballot paper), and the spoilt ballot paper shall be immediately cancelled.

Regulations
as to spoiled
ballot
papers.

29. The presiding officer of each station, as soon as practicable after the close of the poll, shall, in the presence of the agents of the candidates, make up into separate packets sealed with his own seal and the seals of such agents of the candidates as desire to affix their seals,—

Proceedings
after close of
the poll.

- I. Each ballot box in use at his station, unopened but with the key attached; and
 - II. The unused and spoilt ballot papers placed together; and
 - III. The tendered ballot papers; and
 - IV. The marked copies of the register of voters, and the counterfoils of the ballot papers; and
 - V. The tendered votes list, and the list of votes marked by the presiding officer, and a statement of the number of the voters whose votes are so marked by the presiding officer under the heads "physical incapacity," "Jews," and "unable to read," and the declarations of inability to read;
- and shall deliver such packets to the returning officer.

30. The packets shall be accompanied by a statement made by such presiding officer, showing the number of ballot papers entrusted to him, and accounting for them for. under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers, which statement is in this Act referred to as the ballot paper account.

Ballot
papers to be
accounted
for.

Counting Votes.

31. The candidates may respectively appoint agents to attend the counting of the votes.

Agents to
attend.

32. The returning officer shall make arrangements for counting the votes in the presence of the agents of the can-

Notice of
time and

place of
counting
votes to be
given to
agents.

didates as soon as practicable after the close of the poll, and shall give to the agents of the candidates appointed to attend at the counting of the votes notice in writing of the time and place at which he will begin to count the same.

Who may be
present
when votes
counted.

33. The returning officer, his assistants and clerks, and the agents of the candidates, and no other person, except with the sanction of the returning officer, may be present at the counting of the votes.

When ballot
boxes to be
opened.

34. Before the returning officer proceeds to count the votes, he shall, in the presence of the agents of the candidates, open each ballot box, and, taking out the papers therein, shall count and record the number thereof, and then mix together the whole of the ballot papers contained in the ballot boxes. The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the backs of such papers.

Votes to be
counted con-
tinuously.

35. The returning officer shall, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, and excluding (except so far as he and the agents otherwise agree) the hours between seven o'clock at night and nine o'clock on the succeeding morning. During the excluded time the returning officer shall place the ballot papers and other documents relating to the election under his own seal and the seals of such of the agents of the candidates as desire to affix their seals, and shall otherwise take proper precautions for the security of such papers and documents.

Rejected
ballot
papers.

36. The returning officer shall endorse "rejected" on any ballot paper which he may reject as invalid, and shall add to the endorsement "rejection objected to," if an objection be in fact made by any agent to his decision. The returning officer shall report to the Clerk of the Crown in Chancery the number of ballot papers rejected and not counted by him under the several heads of—

- I. Want of official rank ;
- II. Voting for more candidates than entitled to ;
- III. Writing or mark by which voter could be identified ;
- IV. Unmarked or void for uncertainty ;

and shall on request allow any agents of the candidates, before such report is sent, to copy it.

Account of
the ballot
papers to be
made up
and sent to

37. Upon the completion of the counting, the returning officer shall seal up in separate packets the counted and rejected ballot papers. He shall not open the sealed packet of tendered ballot papers or marked copy of the register of

voters and counterfoils, but shall proceed, in the presence of the agents of the candidates, to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers recorded by him as aforesaid, and the unused and spoilt ballot papers in his possession and the tendered votes list, and shall reseal each sealed packet after examination. The returning officer shall report to the Clerk of the Crown in Chancery the result of such verification, and shall, on request, allow any agents of the candidates, before such report is sent, to copy it.

Clerk of the Crown.

38. Lastly, the returning officer shall forward to the Clerk of the Crown in Chancery (in manner in which the poll books are by any existing enactment required to be forwarded to such clerk, or as near thereto as circumstances admit) all the packets of ballot papers in his possession, together with the said reports, the ballot paper accounts, tendered votes lists, list of votes marked by the presiding officer, statements relating thereto, declarations of inability to read, and packets of counterfoils, and marked copies of registers, sent by each presiding officer, endorsing on each packet a description of its contents and the date of the election to which they relate, and the name of the county or borough for which such election was held; and the term poll book in any such enactment shall be construed to include any document forwarded in pursuance of this rule.

All ballot papers to be forwarded to Clerk of the Crown.

Meaning of "poll book" in former enactments.

39. The Clerk of the Crown shall retain for a year all documents relating to an election forwarded to him in pursuance of this Act by a returning officer, and then, unless otherwise directed by an order of the House of Commons, or of one of Her Majesty's superior courts, shall cause them to be destroyed.

Ballot papers, how to be dealt with by Clerk of the Crown.

40. No person shall be allowed to inspect any rejected ballot papers in the custody of the Clerk of the Crown in Chancery, except under the order of the House of Commons or under the order of one of Her Majesty's superior courts; to be granted by such court on being satisfied by evidence on oath that the inspection or production of such ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return; and any such order for the inspection or production of ballot papers may be made subject to such conditions as to persons, time, place, and mode of inspection or production as the House or court making the same may think expedient, and shall be obeyed by the Clerk of the Crown in Chancery. Any power given to a court by this rule may be exercised by any judge of such court at chambers.

Inspection of rejected ballot papers when to be allowed.

Inspection
of counter-
foils.

41. No person shall, except by order of the House of Commons or any tribunal having cognisance of petitions complaining of undue returns or undue elections, open the sealed packet of counterfoils after the same has been once sealed up, or be allowed to inspect any counted ballot papers in the custody of the Clerk of the Crown in Chancery; such order may be made subject to such conditions as to persons, time, place, and mode of opening or inspection as the House or tribunal making the order may think expedient; provided that on making and carrying into effect any such order, care shall be taken that the mode in which any particular elector has voted shall not be discovered until he has been proved to have voted, and his vote has been declared by a competent court to be invalid.

All other
documents
to be open
to public
inspection.

42. All documents forwarded by a returning officer in pursuance of this Act to the Clerk of the Crown in Chancery, other than ballot papers and counterfoils, shall be open to public inspection at such time and under such regulations as may be prescribed by the Clerk of the Crown in Chancery, with the consent of the Speaker of the House of Commons, and the Clerk of the Crown shall supply copies of or extracts from the said documents to any person demanding the same, on payment of such fees and subject to such regulations as may be sanctioned by the Treasury.

How far
genuineness
of docu-
ments pro-
duced by
Clerk of
Crown may
be ques-
tioned.

43. Where an order is made for the production by the Clerk of the Crown in Chancery of any document in his possession relating to any specified election, the production by such clerk or his agent of the document ordered, in such manner as may be directed by such order, or by a rule of the court having power to make such order, shall be conclusive evidence that such document relates to the specified election; and any endorsement appearing on any packet of ballot papers produced by such Clerk of the Crown or his agent shall be evidence of such papers being what they are stated to be by the endorsement. The production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked thereon in writing, shall be *prima facie* evidence that the person who voted by such ballot paper was the person who at the time of such election had affixed to his name in the register of voters at such election the same number as the number written on such counterfoil.

General Provisions.

Return how
to be made.

44. The return of a member or members elected to serve in parliament for any county or borough shall be made by a certificate of the names of such member or members under

the hand of the returning officer endorsed on the writ of election for such county or borough, and such certificate shall have effect and be dealt with in like manner as the return under the existing law, and the returning officer may, if he think fit, deliver the writ with such certificate endorsed to the postmaster of the principal post office of the place of election, or his deputy, and in that case he shall take a receipt from the postmaster or his deputy for the same; and such postmaster or his deputy shall then forward the same by the first post, free of charge, under cover, to the Clerk of the Crown, with the words "election writ and return" endorsed thereon.

45. The returning officer shall, as soon as possible, give public notice of the names of the candidates elected, and, in the case of a contested election, of the total number of votes given for each candidate, whether elected or not.

Public notice to be given of candidates elected.

46. Where the returning officer is required or authorised by this Act to give any public notice, he shall carry such requirement into effect by advertisements, placards, handbills, or such other means as he thinks best calculated to afford information to the electors.

Public notices, how to be given.

47. The returning officer may, if he think fit, preside at any polling station, and the provisions of this Act relating to a presiding officer shall apply to such returning officer with the necessary modifications as to things to be done by the returning officer to the presiding officer, or the presiding officer to the returning officer.

Returning officer may preside at any polling station.

48. In the case of a contested election for any county or borough, the returning officer may, in addition to any clerks, appoint competent persons to assist him in counting the votes.

Appointment of assistants to count votes.

49. No person shall be appointed by a returning officer for the purposes of an election who has been employed by any other person in or about the election.

Who may be appointed to assist.

50. The presiding officer may do, by the clerks appointed to assist him, any act which he is required or authorised to do by this Act at a polling station except ordering the arrest, exclusion, or rejection from the polling station of any person.

What presiding officer may do by deputy.

51. A candidate may himself undertake the duties which any agent of his if appointed might have undertaken, or may assist his agent in the performance of such duties, and may be present at any place at which his agent may, in pursuance of this Act, attend.

Candidate may act as his own agent.

52. The name and address of every agent of a candidate appointed to attend the counting of the votes shall be transmitted to the returning officer one clear day at the least before the opening of the poll: and the returning officer may refuse to admit to the place where the votes are counted any agent whose name and address has not been

Name and address of agents to be transmitted to returning officer.

	so transmitted, notwithstanding that his appointment may be otherwise valid, and any notice required to be given to an agent by the returning officer may be delivered at or sent by post to such address.
Appointment of fresh agent.	53. If any person appointed an agent by a candidate for the purpose of attending at the polling station or at the counting of the votes dies, or becomes incapable of acting during the time of the election, the candidate may appoint another agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the agent so appointed.
Statutory declaration of secrecy by whom to be made.	54. Every returning officer, and every officer, clerk, or agent authorised to attend at a polling station or at the counting of the votes, shall before the opening of the poll, make a statutory declaration of secrecy, in the presence, if he is the returning officer, of a justice of the peace, and if he is any other officer or an agent, of a justice of the peace or of the returning officer; but no such returning officer, officer, clerk, or agent as aforesaid shall, save as aforesaid, be required, as such, to make any declaration or take any oath on the occasion of any election.
Effect of non-attendance of agents.	55. Where in this Act any expressions are used requiring or authorising or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may be authorised to attend, and as have in fact attended, at the time and place where such act or thing is being done, and the non-attendance of any agents or agent at such time and place shall not, if such act or thing be otherwise duly done, in anywise invalidate the act or thing done.
Calculation of time.	56. In reckoning time for the purposes of this Act, Sunday, Christmas day, Good Friday, and any day set apart for a public fast or public thanksgiving, shall be excluded; and where anything is required by this Act to be done on any day which falls on the above-mentioned days such thing may be done on the next day, unless it is one of the days excluded as above-mentioned.
Definitions. "District borough."	57. In this Act— The expression "district borough" means the borough of Monmouth and any of the boroughs specified in schedule E. to the Act of the session of the second and third years of the reign of King William the Fourth, chapter forty-five, intituled "An Act to amend the representation of the People in England and Wales;" and
"Polling place."	The expression "polling place" means, in the case of a borough, such borough or any part thereof in which a separate booth is required or authorised by law to be provided; and

The expression "agents of the candidates," used in relation to a polling station, means agents appointed in pursuance of section eighty-five of the Act of the session of the sixth and seventh years of the reign of Her present Majesty, chapter eighteen.

"Agents
the candi-
dates."

Modifications in Application of Part One of Schedule to Scotland.

Scotland.

58. In Scotland, the place of election shall be a convenient room situate in the town in which the writ for the election would, if this Act had not passed, have been proclaimed.

Place of
election.

59. In Scotland, the candidates may respectively appoint agents to attend at the polling stations. The ballot papers and other documents other than the return required to be sent to and kept by the Clerk of the Crown in Chancery, shall, in Scotland, be kept by the sheriff clerks of the respective counties in which the returns (including those for burghs) are made, and the provisions of this schedule relating thereto shall be construed as if the sheriff clerk were substituted for Clerk of the Crown in Chancery.

Appoint-
ment of
agents.

Custody
of ballot
papers.

60. In Scotland the term "district borough" shall mean the combined burghs and towns specified in Schedule E. of the Act of the session of the second and third years of the reign of King William the Fourth, chapter sixty-five, intituled "An Act to amend the Representation of the People in Scotland;" and in Schedule A. of the Representation of the People (Scotland) Act, 1868.

Meaning of
"district
borough."

61. The provisions* of the Act of the session of the second and third years of the reign of King William the Fourth, chapter sixty-five, intituled "An Act to amend the Representation of the People in Scotland," in so far as they relate to the fixing and announcement of the day of election, the interval to elapse between the receipt of the writ and the day of election, the period of adjournment for taking the poll in the case of Orkney and Shetland, and of the district of burghs comprising Kirkwall, Wick, Dornock, Dingwall, Tain, and Cromarty, and to the keeping open of the poll for two consecutive days in the case of Orkney and Shetland, shall remain in full force and effect, anything in this Act or any other Act of Parliament now in force notwithstanding; but nothing herein contained shall be construed to exclude Orkney and Shetland or Orkney or Shetland, or the said district or burghs, or any of the burghs in the said district, from any of the benefits and obligations of the other portions of this Act.

31 & 32 Vict.
c. 48.

Poll in
Orkney and
Shetland.

Modifications of Application of Part One of Schedule to Ireland.

62. The expression "Clerk of the Crown in Chancery" Ireland.

* 31 & 32 Vict., c. 48, s. 31.

Meaning of

Clerk of the Crown. in this schedule shall mean, as regards Ireland, "the Clerk of the Crown and Hanaper in Ireland."
 Presiding officer need not be freeholder. 63. A presiding officer at a polling station in a county in Ireland need not be a freeholder of the county.

PART II.

RULES FOR MUNICIPAL ELECTIONS.

64. In the application of the provisions of this schedule to municipal elections the following modifications shall be made :—

- (a.) The expression "register of voters" means the burgess roll of the burgesses of the borough, or, in the case of an election for the ward of a borough, the ward list; and the mayor shall provide true copies of such register for each polling station :
- (b.) All ballot papers and other documents which, in the case of a parliamentary election are forwarded to the Clerk of the Crown in Chancery, shall be delivered to the town clerk of the municipal borough in which the election is held, and shall be kept by him among the records of the borough, and the provisions of part one of this schedule with respect to the inspection, production, and destruction of such ballot papers and documents, and to the copies of such documents, shall apply respectively to the ballot papers and documents so in the custody of the town clerk, with these modifications; namely,
 - (a.) An order of the county court having jurisdiction in the borough, or any part thereof, or of any tribunal in which a municipal election is questioned, shall be substituted for an order of the House of Commons, or of one of her Majesty's superior courts; but an appeal from such county court may be had in like manner as in other cases in such county court :
 - (b.) The regulations for the inspection of documents, and the fees for the supply of copies of documents, of which copies are directed to be supplied, shall be prescribed by the council of the borough with the consent of one of her Majesty's Principal Secretaries of State; and, subject as aforesaid, the town clerk, in respect of the custody and destruction of the ballot papers and other documents coming into his possession in pursuance of this Act, shall be subject to the directions of the council of the borough :
 - (c.) Nothing in this schedule with respect to the day of the poll shall apply to a municipal election.

Modifications in Application of Part II. of Schedule to Scotland.

65. In part two of this schedule as applying to Scotland—

The expression "register of voters" means the register, list, or roll of persons entitled to vote in a municipal election made up according to the law for the time being in force.

The expression "county court" means the sheriff court.

The expression "town clerk" includes the clerk appointed by the Commissioners of Police under the Act of the session of the thirteenth and fourteenth years of the reign of her present Majesty, chapter thirty-three, intituled "An Act to make more effectual provision for regulating the police of towns and populous places in Scotland, and for paving, draining, cleansing, lighting, and improving the same," and of the General Police and Improvement (Scotland) Act, 1862.

Modifications in Application of Part II. of Schedule to Ireland.

66. In part two of this schedule as applying to Ireland—

The expression "register of voters," in addition to the meaning specified in such part, means, in relation to any municipal borough subject to the provisions of a local Act requiring an annual revision of the lists of voters at municipal elections, the register of voters made in conformity with the said provisions of such local Act, and in relation to municipal boroughs to which Part II. of the Local Government (Ireland) Act, 1871, applies, the list to be made under the provisions of section twenty-seven of the said Act, and in relation to other municipal boroughs a list which the town clerk of every municipal borough is hereby authorised and directed to make, in like manner in every respect as if the provisions of the said section were applicable to and in force within such municipal borough.

The expression "county court" means the Civil Bill Court.

The expression "town clerk" includes clerk to the commissioners, municipal commissioners, town commissioners, or township commissioners of any municipal borough, and any person executing the duties of such town clerk.

The expression "council of the borough" includes commissioners, municipal commissioners, and town com-

The expression "one of her Majesty's principal Secretaries of State" means the Chief Secretary of the Lord Lieutenant of Ireland.

Note.—The forms contained in this schedule, or forms as nearly resembling the same as circumstances will admit, shall be used in all cases to which they refer and are applicable, and when so used shall be sufficient in law.

I hereby certify, that the members [or member] elected

for in pursuance of the within-written writ, are [or is]
A. B. of in the county of and *C. D.* of
 in the county of

(Signed) *A. B.*,

High Sheriff [or Sheriff, or Mayor, or as the case
 may be].

Note.—A separate writ will be issued for each county as
 defined for the purposes of a parliamentary election.

Form of Notice of Parliamentary Election.

The returning officer of the of will, on
 the day of now next ensuing, between the
 hours of and , proceed to the nomination,
 and, if there is no opposition, to the election of a member
 [or members] for the said county [or division of a county or
 borough] at the *

Forms of nomination paper may be obtained at
 between the hours of and on

* *Note.* In-
 sert descrip-
 tion of place
 and room.

Every nomination paper must be signed by two regis-
 tered electors as proposer and seconder, and by eight other
 registered electors as assenting to the nomination.

Every nomination paper must be delivered to the re-
 turning officer by the candidate proposed, or by his pro-
 poser and seconder, between the said hours of and
 on the said day of at the said

Each candidate nominated, and his proposer and secon-
 der, and one other person selected by the candidate, and no
 other persons, are entitled to be admitted to the room.

In the event of the election being contested, the poll will
 take place on the day of

(Signed) *A. B.*,
 Sheriff [or Mayor, or as the case may be].
 day of 18 .

Take notice, that all persons who are guilty of bribery,
 treating, undue influence, personation, or other corrupt
 practices at the said election will, on conviction of such
 offence, be liable to the penalties mentioned in that behalf
 in "The Corrupt Practices Prevention Act, 1854," and the
 Ballot Act, 1872, and the Acts amending the said Acts.

Form of Nomination Paper in Parliamentary Election.

We, the undersigned *A. B.* of in the
 of and *C. D.* of in the of
 being electors for the of , do hereby nomi-
 nate the following person as a proper person to serve as
 member for the said in Parliament :

Surname.	Other Names.	Abode.	Rank, Profession, or Occupation.
BROWN	JOHN . . .	52, George St., Bristol.	Merchant.
JONES	<i>or</i> WILLIAM DAVID	High Elms, Wilts.	Esquire.
MERTON	<i>or</i> Hon. GEORGE TRAVIS, commonly called Viscount	Swanworth, Berks.	Viscount.
SMITH	<i>or</i> HENRY SYDNEY	72, High St., Bath.	Attorney.

(Signed) *A. B.*
C. D.

We, the undersigned, being registered electors of the
do hereby assent to the nomination of the above-
mentioned *John Brown* as a proper person to serve as
member for the said in parliament.

(Signed) *E. F. of*
G. H. of
I. J. of
K. L. of
M. N. of
O. P. of
Q. R. of
S. T. of

Note.—Where a candidate is an Irish peer, or is commonly known by some title, he may be described by his title as if it were his surname.

Directions as to printing Ballot Paper.

Nothing is to be printed on the ballot paper except in accordance with this schedule.

The surname of each candidate, and if there are two or more candidates of the same surname, also the other names of such candidates, shall be printed in large characters as shown in the form, and the names, addresses, and descriptions, and the number on the back of the paper, shall be printed in small characters.

Form of Directions for the Guidance of the Voter in voting, which shall be printed in conspicuous characters, and placarded outside every polling station, and in every compartment of every polling station.

The voter may vote for candidate .

The voter will go into one of the compartments, and with the pencil provided in the compartment, place a cross on the right-hand side, opposite the name of each candidate for whom he votes, thus X.

The voter will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and then, in the presence of the presiding officer, put the paper into the ballot box, and forthwith quit the polling station.

If the voter inadvertently spoils the ballot paper, he can return it to the officer, who will, if satisfied of such inadvertence, give him another paper.

If the voter votes for more than candidate , or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

ELECTION LAW.

If the voter takes a ballot paper out of the polling station, or deposits in the ballot box any other paper than the one given him by the officer, he will be guilty of a misdemeanor, and be subject to imprisonment for any term not exceeding six months, with or without hard labour.

Note.—These directions shall be illustrated by examples of the ballot paper.

Form of Statutory Declaration of Secrecy.

I solemnly promise and declare, that I will not at this election for do anything forbidden by section four of The Ballot Act, 1872, which has been read to me.

Note.—The section must be read to the declarant by the person taking the declaration.

Form of Declaration of inability to read.

I, *A. B.*, of , being numbered
on the register of voters for the county [*or borough*]
of , do hereby declare that I am unable to read.
A. B., his mark.

day of .
I, the undersigned, being the presiding officer for the
polling station for the county [*or borough*]
of , do hereby certify, that the above declaration, having been first read to the above-named *A. B.*,
was signed by him in my presence with his mark.

Signed *C. D.*,
Presiding officer for polling station
for the county [*or borough*] of
day of

THIRD SCHEDULE.

Provisions of Registration Acts referred to in Part III. of the foregoing Act.

Session and Chapter.	Title.	Part applied.
<i>As to England.</i>		
6 & 7 Vict. c. 18.	An Act to amend the law for the registration of persons entitled to vote, and to define certain rights of voting, and to regulate certain proceedings in the elections of members to serve in Parliament for England and Wales.	Sections eighty-five to eighty-nine, both inclusive.
<i>As to Ireland.</i>		
13 & 14 Vict. c. 69.	An Act to amend the laws which regulate the qualification and registration of parliamentary voters in Ireland, and to alter the law for rating immediate lessors of premises to the poor rate in certain boroughs.	Sections ninety-two to ninety-six, both inclusive.

FOURTH SCHEDULE.

Acts relating to England.

NOTE.—This schedule, so far as respects Acts prior to the tenth year of the reign of George the Third, refers to the edition prepared under the direction of the Lord Chancellor, intituled "The Statutes, Revised Edition."

A description or citation of a portion of an Act is inclusive of the words section, or other part first or last mentioned, or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Portions of Acts which have already been specifically repealed, are in some instances included in the repeal in this schedule, in order to preclude henceforth the necessity of looking back to previous Acts.

Session and Chapter.	Title or abbreviated Title.	Extent of Repeal.
7 Hen. 4. . . 8 Hen. 6. . .	Statute of the seventh year. Statutes of the eighth year of K. Henry VI.	Chapter fifteen. Chapter seven, from "and such as have the greatest number" to "shall lose their wages," and from "and that in every writ that shall hereafter go forth" to the end of the chapter.
23 Hen. 6. . .	Here begin the statutes made at Westminster in the twenty-third year.	Chapter fourteen.
7 & 8 Will. 3. c. 25.	An Act for the further regulating elections of members to serve in Parliament, and for the preventing irregular proceedings of sheriffs and other officers in the electing and returning such members.	Sections three and four, and section five down to "writing the same."
(*) 10 Will. 3. c. 7.	An Act for preventing irregular proceedings of sheriffs and other officers in making the returns of members chosen to serve in Parliament.	So much as is unrepealed.
2 Geo. 2. c. 24.	An Act for the more effectual preventing bribery and corruption in the elections of members to serve in Parliament.	Sections three and nine.

(*) 10 & 11 W. 3. in running headings in ordinary editions.

Session and Chapter.	Title or abbreviated Title.	Extent of Repeal.
18 Geo. 2. c. 18.	An Act to explain and amend the laws touching the elections of knights of the shire to serve in Parliament for that part of Great Britain called England.	Section five, from "or shall vote more than once," to the end of that section, and sections nine to sixteen.
19 Geo. 2. c. 28.	An Act for the better regulating of elections of members to serve in Parliament for such cities and towns in that part of Great Britain called England as are counties of themselves.	Section four, from "or shall vote more than once," to end of that section, and sections six to twelve.
3 Geo. 3. c. 15.	An Act to prevent occasional freemen from voting at elections of members to serve in Parliament for cities and boroughs.	Section seven.
11 Geo. 3. c. 55.	<i>An Act the title of which begins with the words "An Act to incapacitate," and ends with the words "New Shoreham, in the county of Sussex."</i>	The whole Act.
21 Geo. 3. c. 54.	An Act for the better regulating elections of citizens to serve in Parliament for the city of Coventry.	Sections seven to nine and fourteen.
22 Geo. 3. c. 31.	An Act for the preventing of bribery and corruption in the election of members to serve in Parliament for the borough of Cricklade in the county of Wilts.	The whole Act.
25 Geo. 3. c. 84.	<i>An Act the title of which begins with the words "An Act to limit the duration," and ends with</i>	The whole Act, except section one down to "make a return of such person or persons," and

Session and Chapter.	Title or abbreviated Title.	Extent of Repeal.
25 Geo. 3. c. 84, <i>cont.</i>	<i>the words "to serve in Parliament."</i>	section three in so far as that part of a section and section relate to the universities.
33 Geo. 3. c. 64.	<i>An Act the title of which begins with the words "An Act to explain and amend an Act," and ends with the words "time and place of election."</i>	The whole Act, except so far as it relates to the universities.
34 Geo. 3. c. 73.	An Act for directing the appointment of Commissioners to administer certain oaths and declarations required by law to be taken and made by persons offering to vote at the election of members to serve in Parliament.	The whole Act.
42 Geo. 3. c. 62.	An Act for extending the provisions of an Act made in the thirty-fourth year of the reign of His present Majesty, intituled "An Act for directing the appointment of Commissioners to administer certain oaths and declarations required by law to be taken and made by persons offering to vote at the election of members to serve in Parliament," to all oaths now required by law to be taken by voters at elections for members to serve in Parliament.	The whole Act.
43 Geo. 3. c. 74.	An Act for further regulating the administration of the oath or affirmation required to be taken by electors of	The whole Act.

Session and Chapter.	Title or abbreviated Title.	Extent of Repeal.
43 Geo. 3. c. 74, <i>cont.</i>	members to serve in Parliament, by an Act passed in the second year of King George the Second, intituled "An Act for the more effectual preventing bribery and corruption in the election of members to serve in Parliament."	
44 Geo. 3. c. 60.	An Act for the preventing of bribery and corruption in the election of members to serve in Parliament for the borough of Aylesbury in the county of Buckingham.	The whole Act.
11 Geo. 4. & 1 Will. 4. c. 74.	An Act to prevent bribery and corruption in the election of burgesses to serve in Parliament for the borough of East Retford.	The whole Act.
2 & 3 Will. 4. c. 45.	An Act to amend the representation of the people in England and Wales.	Sections fifty-eight to sixty; sections sixty-two, sixty-three, sixty-five, sixty-seven; part of section sixty-eight, namely, from "shall if required thereby" down to "poll at each compartment, and," and from "and in case the booths shall be situated in different places" to "lawfully closed;" and section sixty-nine; and section seventy-one from "and that all deputies" to "candidates at such election," and from "provided also, that the sheriff" to the end of the section; and

Session and Chapter.	Title or abbreviated Title.	Extent of Repeal.
2 & 3 Will. 4. c. 45, <i>cont.</i>		sections seventy-two, seventy-three, and seventy-four.
2 & 3 Will. 4. c. 64.	An Act to settle and describe the divisions of counties and the limits of cities and boroughs in England and Wales, in so far as respects the election of members to serve in Parliament.	Sections twenty-nine to thirty-three, and so much of section thirty-four as relates to taking the poll.
5 & 6 Will. 4. c. 36.	An Act to limit the time of taking the poll in boroughs at contested elections of members to serve in Parliament to one day.	The whole Act, except section two, down to "in the forenoon," and from "and the polling" to "in the afternoon;" and sections seven to nine.
5 & 6 Will. 4. c. 76.	An Act to provide for the regulation of municipal corporations in England and Wales.	The words "openly assemble and" in section thirty; section thirty-two from "by delivering to the mayor and assessors" to the end of that section, and so much of the rest of that section as relates to assessors; section thirty-three from "and shall be so divided" to "poll at each compartment, and," and from "and in case the booths" to "at each place;" the words "Are you the person whose name is signed as A.B. to the voting paper now delivered in by you" in section thirty-four, and section thirty-five from "and the mayor shall cause the voting papers" to end of that section, and so much of the rest

Session and Chapter.	Title or abbreviated Title.	Extent of Repeal.
5 & 6 Will. 4. c. 76, <i>cont.</i>		of that section as relates to assessors; and so much of sections forty-three, forty-four, and forty-six as relates to assessors.
6 & 7 Will. 4. c. 102.	An Act for rendering more easy the taking the poll at county elections.	The whole Act.
6 & 7 Vict. c. 18.	An Act to amend the law for the registration of persons entitled to vote and to define certain rights of voting, and to regulate certain proceedings in the election of members to serve in Parliament for England and Wales.	Section seventy-nine from "Provided always, that it shall not be lawful" to end of that section; section eighty; so much of section eighty-one as relates to a commissioner or commissioners; sections eighty-three, eighty-four, and ninety-one, sections ninety-four to ninety-six, and sections ninety-eight and ninety-nine.
16 & 17 Vict. c. 15.	An Act to limit the time of taking the poll in counties at contested elections for knights of the shire to serve in Parliament in England and Wales to one day.	The whole Act, except section two, down to "in the afternoon of such day," and section three.
16 & 17 Vict. c. 68.	An Act to limit the time for proceeding to election in counties and boroughs in England and Wales, and for polling at elections for the Universities of Oxford and Cambridge, and for other purposes.	Sections two, three, seven, and eight.
17 & 18 Vict. c. 102.	"The Corrupt Practices Prevention Act, 1854."	Section eleven and Schedule B.
22 Vict. c. 35.	"The Municipal Corporation Act, 1859."	So much of section seven as relates to the form of nomination paper, and

Session and Chapter.	Title or abbreviated Title.	Extent of Repeal.
22 Vict. c. 35, <i>cont.</i> 25 & 26 Vict. c. 95.	An Act to amend the law relating to polling places in the boroughs of New Shoreham, Cricklade, Aylesbury, and East Retford.	so much of section eight as relates to assessors. The whole Act.
30 & 31 Vict. c. 102.	"The Representation of the People Act, 1867."	Section thirty-five; section thirty-seven from "where in any place" to end of that section; section thirty-nine.
31 & 32 Vict. c. 58.	"The Parliamentary Electors Registration Act, 1868."	Sections four to sixteen, twenty-four, twenty-six, thirty-four, and thirty-six.
31 & 32 Vict. c. 125.	"The Parliamentary Elections Act, 1868."	Section forty, from "provided always," to the end of that section.

FIFTH SCHEDULE.

Acts relating to Scotland.

A description or citation of a portion of an Act is inclusive of the words section or other part first or last mentioned, or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Session and Chapter.	Title of Act.	Extent of Repeal.
2 & 3 Will. 4. c. 65.	An Act to amend the representation of the people in Scotland.	Sections twenty-four and twenty - five; section twenty - six; section twenty-seven from the words "and each substitute so superintending" to the end of that section; section twenty-eight from the words

Session and Chapter.	Title of Act.	Extent of Repeal.
2 & 3 Will. 4. c. 65, <i>cont.</i>		“and shall within three days” to the end of that section; section twenty-nine the words “the market cross or some other convenient and open place in or immediately adjoining,” and from the words “and if no more than one candidate” to the end of that section; section thirty the words “the market cross or some other convenient and open place in or immediately adjoining,” and from the words “and if no more candidates,” down to the words “Saturdays and Sundays,” and from the words “and the sheriff who proclaimed the writ” to the end of that section; sections thirty-two, thirty-three, and thirty-nine; sections forty-three, forty-seven, and forty-eight.
3 & 4 Will. 4. c. 76.	An Act to alter and amend the laws for the election of the magistrates and councils of the royal burghs in Scotland.	Section eight so far as it provides that the election shall be by “open” poll, and from the words “and each poll clerk shall enter” to the end of that section; section ten, so far as it relates to poll-books; section eleven, so far as it relates to voting by lists; and the words “assemble in the town hall or other public room of such burgh and,” and

Session and Chapter.	Title of Act.	Extent of Repeal.
3 & 4 Will. 4. c. 76, <i>cont.</i>		from the words "and the provost" to the end of that section ; section fifteen, so far as inconsistent with this Act ; section eighteen ; section thirty-six from the commencement to "provided always that ;" and section thirty-eight.
3 & 4 Will. 4. c. 77.	An Act to provide for the appointment and election of magistrates and councillors for the several burghs and towns of Scotland which now return or contribute to return members to Parliament and are not royal burghs.	Section four so far as it provides that the election shall be by open poll ; and from the words "and each poll-clerk shall enter" to the end of that section ; section eight and section nine from the words "assemble in the town hall" to the words "in each such burgh or town ;" so much of the section as relates to voting by lists, and from the words "and such town-clerk" to the end of that section ; section eleven so far as inconsistent with this Act ; and sections eighteen and thirty-four.
4 & 5 Will. 4. c. 86.	<i>An Act the title of which begins with the words "An Act to explain certain provisions," and ends with the words "to return members to Parliament, and are not royal burghs."</i>	The whole Act.
4 & 5 Will. 4. c. 87.	<i>An Act the title of which begins with the words "An Act, to explain certain provisions," and ends with the words "of</i>	The whole Act.

Session and Chapter.	Title of Act.	Extent of Repeal.
4 & 5 Will. 4. c. 87, <i>cont.</i>	the royal burghs of Scotland."	The whole Act.
4 & 5 Will. 4. c. 88.	An Act for the more effectual registration of persons entitled to vote in the election of members to serve in Parliament.	
5 & 6 Will. 4. c. 78.	<i>An Act the title of which begins with the words "An Act to explain and amend an Act," and ends with the words "and to diminish the expenses thereof."</i>	Sections one and two; section five from "and after the poll" to "the declaration;" sections six, seven, eight, twelve, thirteen, and fifteen.
13 & 14 Vict. c. 33.	An Act to make more effectual provision for regulating the police of towns and populous places in Scotland, and for paving, draining, cleansing, lighting, and improving the same.	Sections seven to eleven and thirteen to twenty-six, sections twenty-nine and thirty, so far as their provisions are inconsistent with the provisions of this Act, and schedules (A.), (B.), and (C.)
16 & 17 Vict. c. 28.	An Act to amend the law as to taking the poll at election of members to serve in Parliament for Scotland.	Sections one and ten.
18 & 19 Vict. c. 24.	<i>An Act the title of which begins with the words "An Act to amend an Act," and ends with the words "in county elections in that country."</i>	The whole Act.
24 & 25 Vict. c. 83.	An Act to amend the law regarding the registration of county voters in Scotland.	Schedule (D.) annexed to the Act from the words "and that I am possessed" to the end of the said schedule.
25 & 26 Vict. c. 101.	<i>An Act the title of which begins with the words "An Act to make more effectual provision for regulating the police,"</i>	Sections forty-six, forty-seven, and fifty, so far as their provisions are inconsistent with the provisions of this Act.

Session and Chapter.	Title of Act.	Extent of Repeal.
25 & 26 Vict. c. 101, <i>cont.</i>	<i>and ends with the words</i> "and also for promoting the public health there- of."	
28 & 29 Vict. c. 92.	An Act to shorten the time for the election of members for the Ayr district of burghs.	The whole Act.
31 & 32 Vict. c. 48.	An Act for the amend- ment of the representa- tion of the people in Scotland.	Section twenty-four from the words "and in the case of a poll being de- manded" to the words "the said sheriff of the county of Peebles;" and sections forty-four and fifty-four; and sec- tion fifty-nine from the words "oath of posses- sion" to the end of that section.
31 & 32 Vict. c. 58.	<i>An Act the title of which begins with the words</i> "An Act to amend the law of registration," <i>and ends with the words</i> "other purposes relating thereto."	Section thirteen.

SIXTH SCHEDULE.

Acts relating to Ireland.

A description or citation of a portion of an Act is inclusive of the words, section, or other part first or last mentioned, or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

ACTS OF THE PARLIAMENT OF IRELAND.

Session and Chapter.	Title.	Extent of Repeal.
10 Hen. 7. c. 22	An Act confirming all the statutes made in England.	So much of the same as extends to Ireland

Session and Chapter.	Title.	Extent of Repeal.
10 Hen. 7. c. 22, <i>cont.</i>		the provisions of the Acts of the Parliament of England following: namely, — 7 Hen. 4. chapter fifteen, 8 Hen. 6. chapter seven, from “and such as have the greatest number” to “shall lose their wages,” and from “and that in every writ that shall hereafter go forth” to the end of the chapter, 23 Hen. 6. chapter fourteen.
35 Geo. 3. c. 29.	An Act for regulating the election of members to serve in Parliament, and for repealing the several Acts therein mentioned.	Section three, sections five to thirteen, sections fifteen to eighteen, section twenty.

ACTS OF THE PARLIAMENT OF THE UNITED KINGDOM.

60 Geo. 3. & 1 Geo. 4. c. 11	An Act for the better regulation of polls, and for making further provision touching the election of members to serve in Parliament for Ireland.	Sections two and three, section five from the words “and that such sheriff” to the end of that section, sections six to twenty-one, section twenty-three, sections forty-one and forty-two.
9 Geo. 4. c. 82.	An Act to make provision for the lighting, cleansing, and watching of cities, towns, corporations, and market towns in Ireland in certain cases.	So much of sections twelve and sixteen as prescribes the mode of election of commissioners.
4 Geo. 4. c. 55.	An Act to consolidate and amend the several Acts now in force, so far as the same relate to the election and return of	Section thirty-three from the words “and that such sheriffs” to the end of that section, sections thirty-four to

Session and Chapter.	Title.	Extent of Repeal.
4 Geo. 4. c. 55, <i>cont.</i>	members to serve in Parliament for counties of cities, and counties of towns in Ireland.	forty - seven, sections forty-nine to fifty-nine, sections sixty to sixty-two, sections sixty-four and sixty-five, sections sixty-eight to seventy, seventy-two, seventy-six, and seventy-seven.
2 & 3 W. 4. c. 88.	An Act to amend the representation of the people of Ireland.	Section thirty, section forty-eight, and sections forty-nine to fifty-four.
3 & 4 Vict. c. 108.	An Act for the regulation of municipal corporations in Ireland.	Section sixty-four from the words "by delivering to the mayor or bar-rister" to the end of that section, and so much of that section as relates to assessors; section sixty-five from "and shall be so divided" to "poll at each compartment," and from "in case the booths" to "at each place;" the words "are you the person whose name is signed as A.B. to the voting paper now delivered in by you," in section sixty-six; section sixty-eight from "and the mayor shall cause the voting papers" to the end of that section, and so much of the rest of that section as relates to assessors; and so much of section seventy as relates to ward assessors.
6 & 7 Vic. c. 93.	An Act to amend an Act of the third and fourth years of Her present Majesty for the regu-	Section twenty-three.

Session and Chapter.	Title.	Extent of Repeal.
6 & 7 Vict. c. 98, <i>cont.</i> 9 & 10 Vict. c. 19.	lation of municipal corporations in Ireland. An Act to amend an Act of the second and third years of his late Majesty by providing additional booths or polling places at elections in Ireland where the number of electors whose names shall begin with the same letter of the alphabet shall exceed a certain number.	The whole Act.
13 & 14 Vict. c. 68.	An Act to shorten the duration of elections in Ireland, and for establishing additional places for taking the poll thereat.	Section one, section three, section four, sections ten to fourteen, so much of section fifteen as prescribes the interval between the election and the polling, section sixteen, section nineteen from "and that all the deputies" to "at the expense of the candidates," section twenty, section twenty-two.
13 & 14 Vict. c. 69.	An Act to amend the laws which regulate the qualification and registration of parliamentary voters in Ireland, and to alter the law for rating immediate lessors of premises to the poor rate in certain boroughs.	Sections eighty-six, ninety-eight, ninety-nine; section one hundred; sections one hundred and one and one hundred and two, sections one hundred and four and one hundred and five.
17 & 18 Vict. c. 102.	The Corrupt Practices Prevention Act, 1854.	Section eleven, and Schedule B.
17 & 18 Vict. c. 103.	The Towns Improvement (Ireland) Act, 1854.	So much of section twenty-four as incorporates the sections of 10 & 11 Vict. c. 16 following; that is to say, — sections twenty-three, twenty-

Session and Chapter.	Title.	Extent of Repeal.
17 & 18 Vict. c. 103, <i>cont.</i>		six, and twenty-seven ; section twenty - eight from the words "and shall be conducted in manner following" to "carefully preserved by the presiding officer, and," and the question numbered 1., section thirty from "the returning officer" to "each person and," and section thirty-one, and so much of any Act as incorporates the part of the said section twenty-four hereby repealed.
25 & 26 Vict. c. 62.	An Act to amend the law relating to the duration of contested elections for counties in Ireland, and for establishing additional places for taking the poll thereat.	Part of section four, namely, so much as prescribes the interval between the day fixed for the election and the polling ; section five, sections eight to ten.
25 & 26 Vict. c. 92.	An Act to limit the time for proceeding to elections in counties and boroughs in Ireland.	Section one, and section two from the words "and in every city or town" to the end of that section.
31 & 32 Vict. c. 49.	An Act to amend the representation of the people in Ireland.	Section twelve from the words "several boroughs" to the word "Cork," and the words "and county of the city of Limerick."
31 & 32 Vict. c. 112.	An Act to amend the law of registration in Ireland.	Sections four to thirty ; section thirty-eight.

36 Vict. c. 2.

WHEREAS the chairman of quarter sessions and the justices of the peace having jurisdiction in each county and riding of a county in Ireland assembled at special sessions, appointed and held in pursuance of the provisions of section eighteen of the Ballot Act, 1872, have made orders dividing such counties and ridings respectively into polling districts, and appointing in such districts respectively places for taking the poll at contested elections for members to serve in parliament for such counties respectively; but such orders will not be of any validity until the same are confirmed in manner by the said section prescribed :

Polling
districts,
Ireland.

And whereas it is expedient to accelerate the confirmation of such orders, and to make such other provisions as are in this Act contained :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same as follows :—

1. The following provisions with reference to the confirmation of the said orders made before the passing of this Act, and to the publication of the same, shall be in force and have effect, and the same shall, in relation to the said orders, be substituted for the provisions contained in subsections eight, nine, and ten of section eighteen of the Ballot Act, 1872 :

Confirmation
of
orders.

- I. It shall be lawful for the Lord Lieutenant or other chief governor or governors of Ireland, by and with the advice of Her Majesty's Privy Council in Ireland, to confirm all or any of the said orders, either as the same now stand or with such variation, alteration, or modification as may seem fit, and such confirmation shall in the case of the said orders be a confirmation within the meaning and for the purposes of section eighteen of the Ballot Act, 1872, and every such order so confirmed shall be valid and binding
- II. When any such order has been confirmed as aforesaid, the clerk of the Privy Council in Ireland shall transmit a copy of the same to the clerk of the peace of the county to which the same relates, and notice of the making and confirming of the said order shall be published once in the Dublin Gazette, but it shall not be necessary to publish the said order in the Dublin Gazette or otherwise.

IRISH ACT.

35 Geo. 3, c. 29.

No fee or
reward to be
given to re-
turning
officer.

14. THAT no fee, gratuity, or reward whatsoever shall be given, paid, received, or taken by any sheriff or returning officer or officers of any county, city, town, or borough, for making out, or for the delivery, return, or execution of any writ or precept for the electing a member or members to serve in parliament, and that all contracts, promises, bonds, and securities to be made or given to any sheriff or other returning officer or officers for making a return of any member to serve in parliament, or to pay such sheriff or returning officer or officers any sum or sums of money by way of gratuity or reward for making such return, or otherwise in respect thereof, shall be and are hereby declared to be null and void, and whosoever shall make, give, or accept of such contract, promise, bond, or other security, or any gift or reward to procure any false return shall forfeit a sum equal to the value given or intended to be given or accepted in such contract, promise, or other security, gift, or reward, and also the farther sum of £200 to any person who shall first sue for the same to be recovered as is hereinafter directed.

Penalty for
procuring
false return.

RIOT ACT.

1 Geo. 1, stat. 2, c. 5.

An Act for preventing Tumults and riotous Assemblies, and for the more speedy and effectual punishing the Rioters.

WHEREAS of late many rebellious riots and tumults have been in divers parts of this kingdom, to the disturbance of the public peace, and the endangering of His Majesty's person and government, and the same are yet continued and fomented by persons disaffected to His Majesty, presuming to do so, for that the punishments provided by the laws now in being are not adequate to such heinous offences : and by such rioters His Majesty and his administration have been most maliciously and falsely traduced, with an intent to raise divisions, and to alienate the affections of the people from His Majesty : therefore, for the preventing and suppressing of such riots and tumults, and for the more

speedy and effectual punishing the offenders therein, be it enacted by the king's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and of the Commons, in this present parliament assembled, and by the authority of the same, that if any persons to the number of twelve or more, being unlawfully, riotously, and tumultuously assembled together, to the disturbance of the public peace, at any time after the last day of July in the year of our Lord one thousand seven hundred and fifteen, and being required or commanded by any one or more justice or justices of the peace, or by the sheriff of the county, or his under sheriff, or by the mayor, bailiff or bailiffs, or other head officer, or justice of the peace of any city or town corporate, where such assembly shall be, by proclamation to be made in the king's name, in the form hereinafter directed, to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, shall, to the number of twelve or more (notwithstanding such proclamation made), unlawfully, riotously, and tumultuously remain or continue together by the space of one hour after such command or request made by proclamation, that then such continuing together to the number of twelve or more, after such command or request made by proclamation, shall be adjudged felony without benefit of clergy, and the offenders therein shall be adjudged felons, and shall suffer death as in case of felony without benefit of clergy.

Twelve or more persons unlawfully assembled, after the last day of July, 1715, and not dispersing after commanded by one justice, &c., by proclamation shall be adjudged felons without benefit of clergy.

2. And be it further enacted by the authority aforesaid, that the order and form of the proclamations that shall be made by the authority of this Act shall be as hereafter followeth; that is to say, the justice of the peace, or other person authorized by this Act to make the said proclamation, shall, among the said rioters, or as near to them as he can safely come, with a loud voice command, or cause to be commanded, silence to be while proclamation is making, and after that, shall openly and with loud voice make or cause to be made proclamation in these words, or like in effect :

How the proclamation shall be made.

"Our Sovereign Lord the King chargeth and commandeth all Persons, being assembled, immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, upon the pains contained in the Act made in the first year of King George, for preventing tumults and riotous Assemblies."

The proclamation.

"God save the King."

And every such justice and justices of the peace, sheriff, under sheriff, mayor, bailiff, and other head officer aforesaid, Justices, &c., to resort to the place within the limits of their respective jurisdictions, are hereby

authorized, empowered, and required, on notice or knowledge of any such unlawful, riotous, and tumultuous assembly, to resort to the place where such unlawful, riotous, and tumultuous assembly shall be, of persons to the number of twelve or more, and there to make or cause to be made proclamation in manner aforesaid.

Persons so assembled and not dispersing within an hour to be seized.

3. And be it further enacted by the authority aforesaid, that if such persons so unlawfully, riotously, and tumultuously assembled, or twelve or more of them, after proclamation made in manner aforesaid, shall continue together, and not disperse themselves within one hour, that then it shall and may be lawful to and for every justice of the peace, sheriff, or under sheriff of the county where such assembly shall be, and also to and for every high or petty constable, and other peace officer within such county, and also to and for every mayor, justice of the peace, sheriff, bailiff, and other head officer, high or petty constable, and other peace officer of any city or town corporate where such assembly shall be, and to and for such other person and persons as shall be commanded to be assisting unto any such justice of the peace, sheriff, or under sheriff, mayor, bailiff, or other head officer aforesaid (who are hereby authorized and empowered to command all his Majesty's subjects of age and ability to be assisting to them therein), to seize and apprehend, and they are hereby required to seize and apprehend such persons so unlawfully, riotously, and tumultuously continuing together after proclamation made as aforesaid, and forthwith to carry the persons so apprehended before one or more of his Majesty's justices of the peace of the county or place where such persons shall be so apprehended, in order to their being proceeded against for such their offences according to law; and that if the persons so unlawfully, riotously, and tumultuously assembled, or any of them, shall happen to be killed, maimed, or hurt in the dispersing, seizing, or apprehending, or endeavouring to disperse, seize, or apprehend them, by reason of their resisting the persons so dispersing, seizing, or apprehending, or endeavouring to disperse, seize, or apprehend them, that then every such justice of the peace, sheriff, under sheriff, mayor, bailiff, head officer, high or petty constable, or other peace officer, and all and singular persons being aiding and assisting to them or any of them, shall be free, discharged, and indemnified, as well against the King's Majesty, his heirs and successors, as against all and every other person and persons, of, for, or concerning the killing, maiming, or hurting, of any such person or persons so unlawfully, riotously, and tumultuously assembled, that shall happen to be so killed, maimed, or hurt as aforesaid.

And if they make resistance the persons killing them, &c., to be indemnified.

Pulling down, &c.,

4. And be it further enacted by the authority aforesaid,

that if any persons unlawfully, riotously, and tumultuously assembled together, to the disturbance of the public peace, shall unlawfully and with force demolish or pull down or begin to demolish or pull down, any church or chapel, or any building for religious worship, certified and registered according to the statute made in the first year of the reign of the late King William and Queen Mary, intituled An Act for exempting their Majesties' protestant subjects dissenting from the Church of England from the penalties of certain laws, or any dwelling house, barn, stable, or other outhouse, that then every such demolishing or pulling down, or beginning to demolish or pull down, shall be adjudged felony without benefit of clergy; and the offenders therein shall be adjudged felons, and shall suffer death as in case of felony without benefit of clergy.

any church,
&c., felony
without
benefit of
clergy.

1 W. & M.,
sess. 1. c. 18.

5. Provided always, and be it further enacted by the authority aforesaid, that if any person or persons do or shall, with force and arms, wilfully and knowingly oppose, obstruct, or in any manner wilfully and knowingly lett, hinder, or hurt any person or persons that shall begin to proclaim or go to proclaim according to the proclamation hereby directed to be made, whereby such proclamation shall not be made, that then every such opposing, obstructing, letting, hindering, or hurting such person or persons so beginning or going to make such proclamation as aforesaid shall be adjudged felony without benefit of clergy; and the offenders therein shall be adjudged felons, and shall suffer death as in the case of felony, without benefit of clergy; and that also every such person and persons so being unlawfully, riotously, and tumultuously assembled, to the number of twelve as aforesaid, or more, to whom proclamation should or ought to have been made if the same had not been hindered as aforesaid, shall likewise, in case they or any of them, to the number of twelve or more, shall continue together and not disperse themselves within one hour after such lett or hindrance so made, having knowledge of such lett or hindrance so made, shall be adjudged felons, and shall suffer death as in case of felony without benefit of clergy.

Opposing,
&c., the making such
proclamation
felony
without
benefit of
clergy, and
persons so
assembled if
the proclamation be
hindered
shall nevertheless
suffer as
felons.

6. And be it further enacted by the authority aforesaid, that if after the said last day of July one thousand seven hundred and fifteen any such church or chapel, or any such building for religious worship, or any such dwelling house, barn, stable, or other outhouse, shall be demolished or pulled down wholly or in part, by any persons so unlawfully, riotously, and tumultuously assembled, that then in case such church, chapel, building for religious worship, dwelling house, barn, stable, or outhouse shall be out of any city or town that is either a county of itself or is not within any hundred, that then the inhabitants of the

How the
damages
shall be
made good
if any
church, &c.,
be demolished,
&c.

hundred in which such damage shall be done shall be liable to yield damages to the person or persons injured and damnified by such demolishing or pulling down wholly or in part; and such damages shall and may be recovered by action to be brought in any of his Majesty's Courts of Record at Westminster, wherein no essoign, protection, or wager of law, or any imparlance, shall be allowed, by the person or persons damnified thereby, against any two or more of the inhabitants of such hundred; such action for damages to any church or chapel to be brought in the name of the rector, vicar, or curate of such church or chapel that shall be so damnified, in trust for applying the damages to be recovered in rebuilding or repairing such church or chapel; and that judgment being given for the plaintiff or plaintiffs in such action, the damages so to be recovered shall, at the request of such plaintiff or plaintiffs, his or their executors or administrators, be raised and levied on the inhabitants of such hundred, and paid to such plaintiff or plaintiffs, in such manner and form and by such ways and means as are provided by the statute* made in the seven and twentieth year of the reign of Queen Elizabeth for reimbursing the person or persons on whom any money recovered against any hundred by any party robbed shall be levied; and in case any such church, chapel, building for religious worship, dwelling house, barn, stable, or outhouse so damnified shall be in any city or town that is either a county of itself or is not within any hundred, that then such damages shall and may be recovered by action to be brought in manner aforesaid, wherein no essoign, protection, or wager of law, or any imparlance, shall be allowed, against two or more inhabitants of such city or town; and judgment being given for the plaintiff or plaintiffs in such action, the damages so to be recovered shall, at the request of such plaintiff or plaintiffs, his or their executors or administrators, made to the justices of the peace of such city or town, at any quarter sessions to be holden for the said city or town, be raised and levied on the inhabitants of such city or town, and paid to such plaintiff or plaintiffs, in such manner and form and by such ways and means as are provided by the said statute made in the seven and twentieth year of the reign of Queen Elizabeth, for reimbursing the person or persons on whom any money recovered against any hundred by any party robbed shall be levied.

This Act to be read at the quarter sessions, &c.

7. And be it further enacted by the authority aforesaid, that this Act shall be openly read at every quarter sessions, and at every leet or law day.

* 27 El. c. 13.

8. Provided always, that no person or persons shall be prosecuted by virtue of this Act for any offence or offences committed contrary to the same, unless such prosecution be commenced within twelve months after the offence committed.

Prosecutions within twelve months.

9. And be it further enacted by the authority aforesaid, That the sheriffs and their deputies, stewarts and their deputies, bailies of regalities, and their deputies, magistrates of royal burroughs, and all other inferior judges and magistrates, and also all high or petty constables, or other peace officers of any county, stewartry, city, or town within that part of Great Britain called Scotland, shall have the same powers and authority for putting this present Act in execution within Scotland as the justices of the peace and other magistrates aforesaid respectively have by virtue of this Act within and for the other parts of this kingdom; and that all and every person and persons who shall at any time be convicted of any the offences afore-mentioned, within that part of Great Britain called Scotland, shall for every such offence incur and suffer the pain of death on confiscation of moveables;* and also, that all prosecutions for repairing the damages of any church or chapel, or any building for religious worship, or any dwelling-house, barn, stable, or outhouse, which shall be demolished or pulled down in whole or in part, within Scotland, by any persons unlawfully, riotously, or tumultuously assembled, shall and may be recovered by summary action at the instance of the party aggrieved, his or her heirs or executors, against the county, stewartry, city, or burrough respectively where such disorders shall happen, the magistrates being summoned in the ordinary form, and the several counties and stewartries called by edictal citation at the market cross of the head burrough of such county or stewartry respectively, and that in general, without mentioning their names and designations.

Sheriffs, &c., in Scotland to have the same power as justices, &c., have in England.

Punishment of persons offending in Scotland;

damages of any church, &c., pulled down, &c., in Scotland how to be recovered, and of whom.

10. Provided, and it is hereby declared, That this Act shall extend to all places for religious worship in that part of Great Britain called Scotland which are tolerated by law, and where his majesty King George, the Prince and Princess of Wales, and their issue, are prayed for in express words.

To what places in Scotland this Act shall extend.

* The penalty was commuted to transportation for life, or not less than fifteen years, by 1 Vict. c. 91, s. 1; and now, instead of transportation, penal servitude for not less than five years, or imprisonment, must be awarded, 20 & 21 Vict. c. 3, s. 2; 27 & 28 Vict. c. 47, s. 2.

10 Vict. c. 21.

An Act to regulate the Stations of Soldiers during Parliamentary Elections.

[23d April, 1847.]

8 G. 2 c. 30. WHEREAS by an Act passed in the eighth year of the reign of King George the Second, intituled *An Act for regulating the quartering of Soldiers during the Time of the Election of Members to serve in Parliament*, provision is made for the removal of all soldiers quartered or billeted in any city, borough, town, or place to the distance of two or more miles, when and as often as any election of any peer or peers to represent the peers of Scotland in parliament, or of any member or members to serve in parliament, shall be appointed to be made therein : and whereas in consequence of changes in the law for taking the poll at the election of members to serve in parliament the expence and inconvenience of such removal of soldiers is greatly increased ; be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, That the said Act shall be repealed.

Recited Act repealed.

Soldiers to remain in barracks or quarters during elections for Members of Parliament, except in certain cases.

2. And be it enacted, That on every day appointed for the nomination or for the election or for taking the poll for the election of a member or members to serve in the Commons House of Parliament no soldier within two miles of any city, borough, town, or place where such nomination or election shall be declared or poll taken shall be allowed to go out of the barrack or quarters in which he is stationed, unless for the purpose of mounting or relieving guard, or for giving his vote at such election ; and that every soldier allowed to go out for any such purpose within the limits aforesaid shall return to his barrack or quarters with all convenient speed as soon as his guard shall have been relieved or vote tendered.

Notice of elections to be given by the Clerk of the Crown to Secretary at War, &c.

3. And be it enacted, That when and so often as any election of any member or members to serve in the Commons House of Parliament shall be appointed to be made, the Clerk of the Crown in Chancery or other officer making out any new writ for such election shall, with all convenient speed after making out the said writ, give notice thereof to the Secretary at War, or in case there shall be no Secretary at War to the person officiating in his stead, who shall, at some convenient time before the day appointed for such election, give notice thereof in writing to the general officer commanding in each district of Great Britain, who shall thereupon give the necessary orders for enforcing the execution of this Act in all places under his command.

to apply guards at-

4. Provided always, and be it enacted, That nothing in this Act contained shall be deemed to apply to any soldiers

attending as the guards of her Majesty or any person of the Royal Family, or to the soldiers usually stationed or employed within the Bank of England.

5. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this session of parliament.

tending her Majesty, or to soldiers in the Bank.
Act may be amended, &c.

37 & 38 Vict. c. 81.

An Act to provide for the abolition of certain offices connected with the Great Seal, and to make better provision respecting the office of the Clerk of the Crown in Chancery.

[7th August, 1874.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows ; that is to say,

1. This Act may be cited as the Great Seal (Offices) Act, Short title. 1874.

2. This Act shall come into operation on the first day of September one thousand eight hundred and seventy-four, which day is in this Act referred to as the commencement of this Act.

3. In this Act—

The expression "the Lord Chancellor" means the Lord High Chancellor of Great Britain, or the Commissioners for executing the office of such Lord High Chancellor :
The expression "the Treasury" means the Commissioners of her Majesty's Treasury.

Definition of terms.

4. After the commencement of this Act the office of messenger or pursuivant of the Great Seal shall as a separate office be abolished.

Abolition of office of messenger of Great Seal and transfer of duties.

The powers and duties of the messenger or pursuivant of the Great Seal in relation to writs for the election of members to serve in parliament shall on the commencement of this Act be transferred to and vested in such officer as the Lord Chancellor may from time to time, with the approval of her Majesty, appoint, and such officer may, if the Lord Chancellor so direct, be styled messenger of the Great Seal in lieu of or in addition to any other style denoting his office, and the Act of the session of the fifty-third year of the reign of King George the Third, chapter eighty-nine, intituled "An Act for the more regular conveyance of writs for the election of members to serve in parliament," so far as it is unrepealed, shall be construed as if the officer so appointed were therein substituted for the messenger or pursuivant of the Great Seal, with this qualification, that

the deputy in that Act mentioned shall be appointed by the Lord Chancellor in writing.

All other duties and powers required to be performed by or vested in the messenger or pursuant of the Great Seal shall be performed by and vested in such officer as the Lord Chancellor may from time to time direct.

There shall be paid, out of moneys provided by parliament, to any officer to whom any duties and powers are transferred under this section, such additional salary or remuneration (if any) as the Treasury, upon the recommendation of the Lord Chancellor, may from time to time assign to him.

38 & 39 Vict. c. 40.

Municipal Elections. Arrangement of Clauses.

Clauses.

1. Provisions applicable to municipal elections.
2. Candidates out of United Kingdom ineligible.
3. Mayor to appoint officers for taking the poll.
4. Amendment of law.
5. Conclusiveness of burgess roll.
6. One poll to be taken for auditors and assessors.
7. Withdrawal of candidates.
8. Notices by mayor or town clerk may comprise the several wards of borough.
9. Time of holding election on extraordinary vacancies.
10. Power to town council to divide wards into polling places as they may think fit.
11. Computation of time under the Act.
12. Repeal of parts of Acts in second schedule.
13. Act to be construed with Municipal Corporation Acts.
14. Short title.
15. Duration of Act.

SCHEDULES.

38 & 39 Vict. c. 40.

An Act to amend the Law regulating Municipal Elections.

[19th July, 1875.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows ;
(that is to say,)

- Provisions applicable to municipal elections.
1. The following provisions shall be enacted and apply to nominations at all municipal elections of councillors, auditors, and assessors after the passing of this Act :

1. Nine days at least before any such election the town clerk shall prepare, sign, and publish a notice in the form No. 1. set forth in the first schedule to this Act, or to the like effect, by causing the same to be placed on the door of the town hall, and in some conspicuous parts of the borough or ward for which any such election is to be held.
2. At any such election every candidate shall be nominated in writing ; the writing shall be subscribed by two enrolled burgesses of such borough or ward as proposer and seconder, and by eight other enrolled burgesses of such borough or ward as assenting to the nomination. Each candidate shall be nominated by a separate nomination paper, but the same burgesses, or any of them, may subscribe as many nomination papers as there are vacancies to be filled, but no more. Every person nominated shall be enrolled on the burgess roll of the borough, or a person whose name is inserted in the separate list at the end of the burgess roll, as provided by section three of the Act thirty-two and thirty-three Victoria, chapter fifty-five, and shall be otherwise qualified to be elected. The nomination paper shall state the surname and other names of the person nominated, with his place of abode and description, and shall be in the form No. 2. set forth in the first schedule to this Act, or to the like effect. And the town clerk shall provide nomination papers, and shall supply any enrolled burgess with as many nomination papers as may be required, and shall, at the request of any such person, fill up a nomination paper in manner prescribed by this Act.
3. Every nomination paper subscribed as aforesaid shall be delivered by the candidate himself, or his proposer or seconder, to the town clerk, seven days at least before the day of election, and before five o'clock in the afternoon of the last day on which any such nomination paper may by law be delivered ; the town clerk shall forthwith send notice of such nomination to each person nominated. The mayor shall attend at the town hall on the day next after the last day for the delivery of nominations to the town clerk between the hours of two and four in the afternoon, and shall decide on the validity of every objection made to a nomination paper, such objection to be made in writing. The candidate nominated by each nomination paper, and one other person, appointed by or on behalf of the candidate as hereinafter mentioned, and no person other than aforesaid, shall, except for the purpose of assisting the mayor, be

entitled to attend such proceedings, and each candidate and the person appointed by him shall, during the time appointed for the attendance of the mayor for the purposes of this section, have respectively power to object to the nomination paper of every person nominated at the same election. The decision of the mayor, which shall be given in writing, shall, if disallowing any objection to a nomination paper, be final, but if allowing the same shall be subject to reversal on petition questioning the election or return. The appointment by or on behalf of candidates of persons as aforesaid shall be made in writing under the hand of the candidate, or, in case he is absent from the United Kingdom, then under the hand of his proposer or seconder, and shall be delivered to the town clerk before five o'clock in the afternoon of the last day on which nomination papers may by law be delivered.

The town clerk shall at least four days before the day of election cause the surnames and other names of all persons duly nominated, with their respective places of abode and descriptions, and the names of the persons subscribing their respective nomination papers as proposers and seconds, to be printed and placed on the door of the town hall, and in some conspicuous parts of the borough or ward for which such election is to be held.

4. Section eight of the Act of twenty-second Victoria, chapter thirty-five, so far as the same is now in force, shall apply to nominations of councillors, auditors, and assessors, duly made and allowed under this Act. Section three of the Ballot Act, 1872, shall apply to nomination papers under this Act, and so applied, the word "returning officer" shall be taken to include town clerk in reference to the delivery of such nomination papers.

Candidates out of United Kingdom ineligible.

Mayor to appoint officers for taking the poll.

2. The nomination of a person who is absent from the United Kingdom shall be void, unless his written consent given within one month of the day of his nomination before two witnesses be produced at the time of his nomination.

3. At any municipal election of councillors, auditors, or assessors, the power and duty of the mayor, under section twenty of the Ballot Act of 1872, to provide everything which in the case of a parliamentary election is required to be provided by the returning officer for the purpose of a poll, shall (save as to the appointment of the alderman as returning officer for any ward) extend to the appointment of officers for taking the poll and counting the votes recorded at such election.

4. The provisions contained in rules 16 and 19 of the first schedule to the Ballot Act, 1872, shall not apply to any such election, but the mayor shall furnish every polling station with such number of compartments in which the voters can mark their votes screened from observation, and furnish each presiding officer with such number of ballot papers, as in the judgment of the mayor shall be necessary for effectually taking the poll at such election in other respects in the manner provided by the Ballot Act, 1872..

Amendment
of law.

Where more candidates are nominated than there are vacancies to be supplied, the mayor shall at least four days before the day of election, give such public notice as may be required by law of the situation, division, and allotment of polling places for taking the poll at any municipal election, and of the description of persons entitled to vote thereat and at the several polling stations.

5. At any municipal election a person shall not be entitled to sign or subscribe any nomination paper, or to vote, unless his name is on the burgess roll for the time being in force in the borough, or on the ward list for the time being in force for the ward, for which such election shall be held ; and every person whose name is on such burgess roll or ward list, as the case may be, shall be entitled to sign or subscribe any nomination paper, and to demand and receive a ballot paper, and to vote ; provided that nothing in this section shall entitle any person to do any of the acts aforesaid who is prohibited from doing such acts or any of them by law, or relieve such person from any penalties to which he may be liable for doing any such act.

Conclusive-
ness of
burgess
roll.

6. At the poll at any election of auditors and assessors one ballot paper only shall be used by any person voting. In such ballot paper the names of the candidates for the respective offices shall be separate, and distinguished so as to show the office for which they are respectively candidates, and the ballot paper shall be in the Form No. 3. set forth in the first schedule to this Act, or to the like effect, and the provisions of the Ballot Act, 1872, shall at any such election be altered and varied accordingly ; provided always, that in counting the votes every such ballot paper shall be deemed to be a separate ballot paper in respect of each office, and any objections thereto shall be considered and dealt with accordingly.

One poll to
be taken for
auditors and
assessors.

7. Where more candidates are nominated at any municipal election than there are vacancies to be filled at such election, any of such candidates may withdraw from his candidature by notice signed by him and delivered to the town clerk not later than two o'clock in the afternoon of the day next after the last day for the delivery of nomination papers to the town clerk ; provided that such notices shall take effect in the order in which they are delivered to the town clerk, and

Withdrawal
of candi-
dates.

that no such notice shall have effect so as to reduce the number of candidates ultimately standing nominated below the number of the vacancies to be filled.

Notices by mayor or town clerk may comprise the several wards of borough.

8. Any notice required by law to be given or published by the mayor or other returning officer or town clerk in connexion with any municipal election may, as to auditors and assessors, be comprised in one notice, and with respect to the election of councillors in any borough divided into wards, may comprise the matter necessary to such notice for the several wards in the borough, and it shall not be necessary to issue a separate notice for each ward.

Time of holding election on extraordinary vacancies.

9. Section eleven of the Act sixteenth and seventeenth Victoria, chapter seventy-nine, shall be read as if fourteen days were therein inserted instead of ten days, and the day for holding the election in the case of any extraordinary vacancy in the office of councillor, auditor, or assessor in any borough (whether such borough shall be divided into wards or not) shall be fixed by the mayor.

Power to town council to divide wards into polling places as they may think fit.

10. The town council of any borough may by order divide any such borough or any ward or wards of such borough into polling districts in such manner as they may think most convenient for taking the votes of the burgesses at a poll, and the overseers shall, so far as practicable, make out the lists of burgesses in such manner as to divide the names in conformity with such polling districts.

Computation of time under the Act.

11. In reckoning time for the purpose of this Act, Sunday, Christmas Day, Good Friday, and any day set apart for a public holiday, fast, or public thanksgiving, shall be excluded.

Repeal of parts of Acts in second schedule.

12. The several Acts of Parliament mentioned in the second schedule to this Act shall be repealed to the extent specified in the third column of such schedule, but such repeal shall not affect the validity or invalidity of anything already done or suffered, or any remedy or proceeding in respect thereof, or the proof of any past act or thing.

Act to be construed with Municipal Corporation Acts.

13. This Act shall, as far as consistent with the tenor thereof, be construed as one with the Act fifth and sixth William the Fourth, chapter seventy-six, and the Acts amending the same, and the Acts for the time being in force relating to elections of councillors, auditors, and assessors in boroughs.

Short title.

14. This Act may for all purposes be cited as "The Municipal Elections Act, 1875."

Duration of Act.

15. This Act shall continue in force for so long only as the Ballot Act, 1872, continues in force.

FIRST SCHEDULE.

FORM No. 1.

NOTICE.

Borough of . Election of [councillors, or auditors,
or assessors, as the case may be] for the [
ward or several wards of the] borough.

Take Notice.

1. That an election of [*here insert the number of coun-
cillors, auditors, or assessors, as the case may be*] for the
[ward or several wards of the] said borough will
be held on the day of

2. Candidates must be nominated by writing, subscribed
by two enrolled burgesses as proposer or seconder, and by
eight other enrolled burgesses as assenting to the nomi-
nation.

3. Candidates must be duly qualified for the office to
which they are nominated, and the nomination paper must
state the surname and other names of the person nominated,
with his place of abode and description, and may be in the
following form, or to the like effect :

(Set out Form No. 2.)

4. Each candidate must be nominated by a separate nomi-
nation paper, but the same burgesses or any of them may
subscribe as many nomination papers as there are vacancies
to be filled for the borough [*or ward*], but no more.

5. Every person who forges a nomination paper, or delivers
any nomination paper knowing the same to be forged, will
be guilty of misdemeanor, and be liable to imprisonment for
any term not exceeding six months, with or without hard
labour.

6. Nomination papers must be delivered by the candidate
himself, or his proposer or seconder, to the town clerk at
his office before five o'clock in the afternoon of day
the day of next.

7. The mayor will attend at the town hall on day
the day of , from two to four o'clock in the
afternoon, to hear and decide objections to nomination
papers.

8. Forms of nomination papers may be obtained at the
town clerk's office ; and the town clerk will, at the request
of any enrolled burgess, fill up a nomination paper.

Dated this day of 18 .
A. B., Town Clerk.

ELECTION LAW.

FORM No. 2.

NOMINATION PAPER.

Borough of . Election of councillors, auditors,
or assessors for ward in the said
borough [or the said borough], to be held on the
day of 18 .

We, the undersigned, being respectively enrolled bur-
gesses, hereby nominate the following person as a candidate
at the said election.

Surname.	Other Names.	Abode.	Description.

(Signed) A. B. of *
C. D. of *

We, the undersigned, being respectively enrolled bur-
gesses, do hereby assent to the nomination of the above
person as a candidate at the said election.

Dated this day of 18 .

(Signed) E. F. of * M. N. of *
G. H. of * O. P. of *
I. J. of * Q. R. of *
K. L. of * S. T. of *

FORM No. 3.

BALLOT PAPER.

Form of Front of Ballot Paper.
For Auditors.

Counterfoil.
No.

Note.—The
counterfoil
is to have a
number to
correspond
with that on
the back of
the ballot
paper.

1	CADE. (John Cade, of 22, Wellclose Place, Ac- countant.)	
2	JOHNSON. (Charles Johnson, of 7, Albion Street, Gentleman.)	
3	THOMPSON. (William Thompson, of 14, Queen Street, Silversmith.)	

* The number on the burgess roll of the burgess subscribing, with
the situation of the property in respect of which he is enrolled on the
burgess roll.

For Revising Assessor.

1	BACON. (Charles Bacon, of 29, New Street, Solicitor.)	
2	BYRON. (James Byron, of 45, George Street, Commission Agent.)	
3	WILSON. (George Wilson, of 22, Hanover Square, Gentleman.)	

Form of Back of Ballot Paper.

No. Election of auditors [or assessors] for the
borough of , to be held on the day
of 18 .

The number on the back of the ballot paper is to correspond with that on the counterfoil.

SECOND SCHEDULE.

Session and Chapter.	Title of Act.	Extent of Repeal.
5 & 6 Will. 4. c. 76.	An Act to provide for the regulation of municipal corporations in England and Wales.	So much of section forty-seven as relates to the fixing of the day of election by the alderman.
22 Vict. c. 35.	The Municipal Corporation Act, 1859.	Sections five, six, seven, and schedules.
32 & 33 Vict. c. 55.	An Act to shorten the term of residence required as a qualification for the municipal franchise, and to make provision for other purposes.	Sections six and seven.
35 & 36 Vict. c. 33.	The Ballot Act, 1872.	Directions in the schedule to the Act as to the form of nomination papers at municipal elections.

38 & 39 Vict. c. 84.

An Act to regulate the Expenses and to control the Charges of Returning Officers at Parliamentary Elections.

[13th August, 1875.]

WHEREAS it is expedient to amend the law relating to the expenses and charges of returning officers at parliamentary elections :

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows :

Construc-
tion of
Act.

1. The Ballot Act, 1872, as modified by this Act, and this Act shall be construed as one Act.

Payments to
returning
officers.

This Act shall apply only to parliamentary elections.

2. The returning officer at an election shall be entitled to his reasonable charges, not exceeding the sums mentioned in the first schedule to this Act, in respect of services and expenses of the several kinds mentioned in the said schedule, which have been properly rendered or incurred by him for the purposes of the election.

The amount of such charges shall be paid by the candidates at the election in equal several shares, or where there is only one candidate, by such candidate. If a candidate is nominated without his consent, the persons by whom his nomination is subscribed shall be jointly and severally liable for the share of the charges for which he would be liable if he were nominated with his consent.

A returning officer shall not be entitled to payment for any other services or expenses, or at any greater rates than as in the said schedule mentioned, any law or usage to the contrary notwithstanding.

Returning
officer may
require de-
posit or
security.

3. The returning officer, if he think fit, may, as hereinafter provided, require security to be given for the charges which may become payable under the provisions of this Act in respect of any election.

The total amount of the security which may be required in respect of all the candidates at an election shall not in any case exceed the sums prescribed in the third schedule to this Act.

Where security is required by the returning officer it shall be apportioned and given as follows ; viz.,

(1.) At the end of the two hours appointed for the election the returning officer shall forthwith declare the number of the candidates who then stand nominated, and shall, if there be more candidates nominated than there are vacancies to be filled up, apportion equally among them the total amount of the required security :

- (2.) Within one hour after the end of the two hours aforesaid, security shall be given, by or in respect of each candidate then standing nominated, for the amount so apportioned to him :
- (3.) If in the case of any candidate security is not given or tendered as herein mentioned, he shall be deemed to be withdrawn within the provisions of the Ballot Act, 1872 :
- (4.) A tender of security in respect of a candidate may be made by any person :
- (5.) Security may be given by deposit of any legal tender or of notes of any bank being commonly current in the county or borough for which the election is held, or, with the consent of the returning officer, in any other manner :
- (6.) The balance (if any) of a deposit beyond the amount to which the returning officer is entitled in respect of any candidate shall be repaid to the person or persons by whom the deposit was made.

4. Within twenty-one days after the day on which the return is made of the persons elected at the election, the returning officer shall transmit to every candidate or other person from whom he claims payment either out of any deposit or otherwise of any charges in respect of the election, or to the agent for election expenses of any such candidate, a detailed account showing the amounts of all the charges claimed by the returning officer in respect of the election, and the share thereof which he claims from the person to whom the account is transmitted. He shall annex to the account a notice of the place where the vouchers relating to the account may be seen, and he shall at all reasonable times and without charge allow the person from whom payment is claimed, or any agent of such person, to inspect and take copies of the vouchers.

The account of a returning officer may be taxed

The returning officer shall not be entitled to any charges which are not duly included in his account.

If the person from whom payment is claimed objects to any part of the claim, he may, at any time within fourteen days from the time when the account is transmitted to him, apply to the court as defined in this section for a taxation of the account, and the court shall have jurisdiction to tax the account in such manner and at such time and place as the court thinks fit, and finally to determine the amount payable to the returning officer and to give and enforce judgment for the same as if such judgment were a judgment in an action in such court, and with or without costs at the discretion of the court.

The court for the purposes of this Act shall be in the city of London the Lord Mayor's Court, and elsewhere in England

the County Court, and in Ireland the Civil Bill Court, having jurisdiction at the place of nomination for the election to which the proceedings relate.

The court may depute any of its powers or duties under this Act to the registrar or other principal officer of the court.

Nothing in this section shall apply to the charge of the returning officer for publication of accounts of election expenses.

Claims
against a
returning
officer.

5. Every person having any claim against a returning officer for work, labour, materials, services, or expenses in respect of any contract made with him by or on behalf of the returning officer for the purposes of an election, except for publication of accounts of election expenses, shall, within fourteen days after the day on which the return is made of the person or persons elected at the election, transmit to the returning officer the detailed particulars of such claim in writing, and the returning officer shall not be liable in respect of anything which is not duly stated in such particulars.

Where application is made for taxation of the accounts of a returning officer, he may apply to the court as defined in this Act to examine any claim transmitted to him by any person in pursuance of this section, and the court after notice given to such person, and after hearing him, and any evidence tendered by him, may allow or disallow, or reduce the claim objected to, with or without costs, and the determination of the court shall be final for all purposes, and as against all persons.

Use of
ballot boxes,
&c. provided
for municipal
elections.

6. In any case to which the fourteenth section of the Ballot Act, 1872, is applicable, it shall be the duty of the returning officer, so far as is practicable, to make use of ballot boxes, fittings, and compartments provided for municipal or school board elections, and the court, upon taxation of his accounts, shall have regard to the provisions of this section.

Notices to
be given by
returning
officers.

7. There shall be added to every notice of election to be published under the provisions of the Ballot Act, 1872, the notification contained in the second schedule to this Act with respect to claims against returning officers.

Saving of
the universities.

8. Nothing in this Act shall apply to an election for any university or combination of universities.

Commence-
ment and
duration of
Act.

9. This Act shall come into operation on the first day of October one thousand eight hundred and seventy-five, and continue in force until the thirty-first day of December one thousand eight hundred and eighty, and no longer, unless parliament shall otherwise determine.

Short title.

10. This Act may be cited for all purposes as the "Parliamentary Elections (Returning Officers) Act, 1875."

Not to apply
to Scotland.

11. This Act shall not apply to Scotland.

SCHEDULES.

FIRST SCHEDULE.

CHARGES OF RETURNING OFFICERS.

The following are the maximum charges to be made by the returning officer, but the charges are in no case to exceed the sums actually and necessarily paid or payable.

PART I.—COUNTIES AND DISTRICT OR CONTRIBUTORY BOROUGHES.

This part of this Schedule applies to an election for a county, or for either of the boroughs of Aylesbury, Cricklade, Monmouth, East Retford, Stroud, and New Shoreham, or for any borough or burgh consisting of a combination of separate boroughs, burghs, or towns.

	£	s.	d.
For preparing and publishing the notice of election	2	2	0
For preparing and supplying the nomination papers	1	1	0
For travelling to and from the place of nomination, or of declaring the poll at a contested election, per mile	0	1	0
For hire or necessary fitting up of rooms or buildings for polling, or damage or expenses by or for use of such rooms or buildings.	The necessary expenses, not exceeding at any one polling station the charge for constructing and fitting polling station.		
For constructing a polling station, with its fittings and compartments, in England	7	7	0
And in Ireland the sum or sums payable under the provisions of the 13th and 14th Victoria, chap. 68, and 35th and 36th Victoria, chap. 33.			
In Ireland the returning officer shall use a court house where one is available as a polling station, and his maximum charge for			

	£. s. d.
using and fitting the same shall in no case exceed three pounds three shillings.	
For each ballot box required to be purchased	1 1 0
For the use of each ballot box, when hired	0 5 0
For stationery at each polling station . .	0 10 0
For printing and providing ballot papers, per thousand	1 10 0
For each stamping instrument	0 10 0
For copies of the register	
	The sums payable by statute for the necessary copies.
For each presiding officer	3 3 0
For one clerk at each polling station where not more than 500 voters are assigned to such station	1 1 0
For an additional clerk at a polling station for every number of 500 voters, or fraction thereof beyond the first 500 assigned to such polling station	1 1 0
For every person employed in counting votes, not exceeding six such per- sons where the number of registered electors does not exceed 3,000, and one for every additional 2,000 electors	1 1 0
For making the return to the clerk of the Crown	1 1 0
For the preparation and publication of notices (other than the notice of election).	Not exceeding for the whole of such notices 20 <i>l.</i> , and 1 <i>l.</i> for every additional 1,000 electors above 3,000.
For conveyance of ballot boxes from the polling stations to the place where the ballot papers are to be counted, per mile	0 1 0
For professional and other assistance in and about the conduct of the election.	In a contested election not ex- ceeding 25 <i>l.</i> , and an addi-

	£ s. d.
	tional 3 <i>l</i> . for every 1,000 registered electors or fraction thereof above 3,000 and up to 10,000, and 2 <i>l</i> . for every 1,000 or fraction thereof above 10,000. In an uncontested election, one-fifth of the above sums.
For travelling expenses of presiding officers and clerks, per mile . . .	0 1 0
For services and expenses in relation to receiving and publishing accounts of election expenses, in respect of each candidate	2 2 0
For all other expenses	In a contested election, not exceeding 10 <i>l</i> ., and an additional 1 <i>l</i> . for every 1,000 electors or fraction thereof above 1,000. In an uncontested election, nil.

NOTE.—*Travelling expenses are not to be allowed in the case of any person unless for distances exceeding two miles from the place at which he resides.*

PART II.—BOROUGHES.

This part of the Schedule applies to all boroughs not included in Part I. of the Schedule.

	£ s. d.
For preparing and publishing the notices of election	2 2 0
For preparing and supplying the nomination papers	1 1 0
For hire or necessary fitting up of rooms or buildings for polling, or damage or expenses by or for use of such rooms or buildings.	The necessary expenses, not exceeding at any one polling station the charge for constructing and fitting a polling station.
In England, for constructing a polling station, with its fittings and compartments, not exceeding two in number	7 7 0
For each compartment required to be constructed, when more than two be used	1 1 0
For the use of each compartment hired, when more than two are used	0 5 0
And in Ireland, in lieu of the charges payable in respect of the foregoing last three services, the sum or sums payable under the provisions of 13th and 14th Victoria, chap. 63, and 35th and 36th Victoria, chap. 33.	
For each ballot box required to be purchased	1 1 0
For the use of each ballot box, when hired	0 5 0
For stationery at each polling station	0 10 0
For printing and providing ballot papers, per thousand	1 10 0
For each stamping instrument	0 10 0
For copies of the register	The sums payable by statute for the necessary copies.
	3 3 0
For each presiding officer	
For one clerk at each polling station where not more than 500 voters are assigned to such station	1 1 0
For an additional clerk at a polling station for every number of 500 voters,	

or fraction thereof beyond the first 500 assigned to such station . . .	£ s. d. 1 1 0
For every person employed in counting votes, not exceeding six such persons where the number of registered electors does not exceed 3,000, and one for every additional 2,000 electors .	1 1 0
For making the return to the Clerk of the Crown . . .	1 1 0
For the preparation and publication of notices (other than the notice of election).	Not exceeding for the whole of such notices 10 <i>l.</i> , and 1 <i>l.</i> for every additional 1,000 electors above 1,000.
For professional and other assistance in and about the conduct of the election.	In a contested election, not exceeding 20 <i>l.</i> , an additional 2 <i>l.</i> for every 1,000 registered electors or fraction thereof above 1,000 and up to 10,000, and 1 <i>l.</i> additional for every 1,000 or fraction thereof above 10,000. In an uncontested election one-fifth of the above sum.
For services and expenses in relation to receiving and publishing accounts of election expenses, in respect of each candidate	1 1 0
For all other expenses	Not exceeding 10 <i>l.</i> , and an additional 1 <i>l.</i> for every 1,000 electors above the first 1,000.

NOTE to PARTS I. and II. of SCHEDULE I.

The above sums are the aggregate charges, the amount of which is to be apportioned among the several candidates or other persons liable for the same.

ELECTION LAW.

SECOND SCHEDULE.

1. Notification to be added to the Notice of Election.

Take notice, that by the Parliamentary Elections (Returning Officers) Act, 1875, it is provided that every person having any claim against a returning officer for work, labour, materials, services, or expenses in respect of any contract made with him by or on behalf of the returning officer, for the purposes of an election (except for publications of account of election expenses), shall, within fourteen days after the day on which the return is made of the person or persons elected at the election, transmit to the returning officer the detailed particulars of such claim in writing, and the returning officer shall not be liable in respect of anything which is not duly stated in such particulars.

THIRD SCHEDULE.

Maximum Amount of Security which may be required by a Returning Officer.

	County or District of Contributory Borough.	Borough.
	£	£
Where the registered electors do not exceed 1,000	150	100
Where the registered electors exceed 1,000 but do not exceed 2,000	200	150
Where the registered electors exceed 2,000 but do not exceed 4,000	275	200
Where the registered electors exceed 4,000 but do not exceed 7,000	400	250
Where the registered electors exceed 7,000 but do not exceed 10,000	550	300
Where the registered electors exceed 10,000 but do not exceed 15,000	700	450
Where the registered electors exceed 15,000 but do not exceed 20,000	800	500
Where the registered electors exceed 20,000 but do not exceed 30,000	900	600
Where the registered electors exceed 30,000	1,000	700

If at the end of the two hours appointed for the election, not more candidates stand nominated than there are vacancies to be filled up, the maximum amount which may be required is one-fifth of the maximum according to the above scale.

41 Vict. c. 4.

An Act to extend the Hours of Polling at Parliamentary Elections in the Metropolis.

[25th February, 1878.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:—

1. At every election held after the passing of this Act, to return a member or members to serve in Parliament for any of the boroughs named in the schedule to this Act, the poll, if taken, shall commence at eight o'clock in the forenoon and be kept open until eight o'clock in the afternoon of the same day.

Hours of
polling in
metropolitan
boroughs.

2. This Act may be cited as the Parliamentary Elections Short title. (Metropolis) Act, 1878.

SCHEDULE.

London.	Hackney,
Westminster.	Lambeth.
Chelsea.	Marylebone.
Finsbury.	Southwark.
Greenwich.	Tower Hamlets.

41 & 42 Vict. c. 41.

An Act to enable Returning Officers at Parliamentary Elections in Scotland to require Security for their Expenses; and otherwise to amend the Law of Scotland relating to such Expenses.

[8th August, 1878.]

WHEREAS it is expedient to amend the law relating to the expenses and charges of returning officers at parliamentary elections in Scotland, and otherwise to amend the law of Scotland relating to such expenses:

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as the Parliamentary Elections, Returning Officers Expenses (Scotland) and com-

struction of
Act.
35 & 36 Vict.
c. 33.

Extent of
Act.
Returning
officer may
require de-
posit or
security

35 & 36 Vict.
c. 33.

Use of ballot
boxes, &c.
provided for
municipal
elections.
35 & 36 Vict.
c. 33, s. 14.

Saving of
the univer-
sities.
Commence-

Act, 1878, and the Ballot Act, 1872, as modified by this Act, and this Act shall be construed as one Act.

2. This Act shall extend to Scotland only, and only to parliamentary elections.

3. The returning officer, if he think fit, may, as herein-after provided, require security to be given for the charges which may become payable under the provisions of any Act of Parliament in respect of any election.

The total amount of the security which may be required in respect of all the candidates at an election shall not in any case exceed the sum prescribed in the schedule to this Act.

Where security is required by the returning officer it shall be apportioned and given as follows; viz.,

(1.) At the end of the two hours appointed for the election the returning officer shall forthwith declare the number of the candidates who then stand nominated, and shall, if there be more candidates nominated than there are vacancies to be filled up, apportion equally among them the total amount of the required security:

(2.) Within one hour after the end of the two hours aforesaid, security shall be given by or in respect of each candidate then standing nominated, for the amount so apportioned to him:

(3.) If in the case of any candidate security is not given or tendered as herein mentioned, he shall be deemed to be withdrawn within the provisions of the Ballot Act, 1872:

(4.) A tender of security in respect of a candidate may be made by any person:

(5.) Security may be given by deposit of any legal tender or of notes of any bank being commonly current in the county or burgh for which the election is held, or, with the consent of the returning officer in any other manner:

(6.) The balance (if any) of a deposit beyond the amount to which the returning officer is entitled in respect of any candidate shall be repaid to the person or persons by whom the deposit was made.

4. In any case to which the fourteenth section of the Ballot Act, 1872, is applicable, it shall be the duty of the returning officer, so far as is practicable, to make use of ballot boxes, fittings, and compartments provided for municipal or school board elections, and the court, upon taxation of his accounts, shall have regard to the provisions of this section.

5. Nothing in this Act shall apply to an election for any university or combination of universities.

6. On and after the passing of this Act it shall come into

operation, and shall continue in force until the thirty-first day of December, one thousand eight hundred and eighty, and no longer, unless Parliament shall otherwise determine.

ment and
duration of
Act.

SCHEDULE.

Maximum Amount of Security which may be required
by a Returning Officer.

	County or District of Contributory Burghs.	Burgh.
	£	£
Where the registered electors do not exceed 1,000	150	100
Where the registered electors exceed 1,000 but do not exceed 2,000	200	150
Where the registered electors exceed 2,000 but do not exceed 4,000	275	200
Where the registered electors exceed 4,000 but do not exceed 7,000	400	250
Where the registered electors exceed 7,000 but do not exceed 10,000	550	300
Where the registered electors exceed 10,000 but do not exceed 15,000	700	450
Where the registered electors exceed 15,000 but do not exceed 20,000	800	500
Where the registered electors exceed 20,000 but do not exceed 30,000	900	600
Where the registered electors exceed 30,000 but do not exceed 40,000	1,000	700
Where the registered electors exceed 40,000 but do not exceed 50,000	—	1,000
Where the registered electors exceed 50,000 but do not exceed 60,000	—	1,300
Where the registered electors exceed 60,000	—	1,600

- of the county of _____, or for the city [or burgh] of _____ or for the _____ district of burghs [as the case may be];
2. Have you already voted, either here or elsewhere, at this election for the county of _____ [or for the _____ division of the county of _____], or for the city [or burgh] of _____ or for the _____ district of burghs [as the case may be]:

And if any person shall wilfully make a false answer to either of the questions aforesaid, he shall be deemed guilty of a crime and offence within the meaning of the Ballot Act, 1872.

4. This Act and the Acts mentioned in the Schedule to this Act, so far as they are unrepealed, shall continue in force until the *thirty-first day of December one thousand eight hundred and eighty-one*, and any enactments amending or affecting the enactments continued by this Act shall, in so far as they are temporary in their duration, be continued in like manner.

SCHEDULE.

Acts referred to.

Session and Chapter.	Title.
17 & 18 Vict. c. 102.	The Corrupt Practices Prevention Act, 1854.
21 & 22 Vict. c. 87.	An Act to continue and amend the Corrupt Practices Prevention Act, 1854.
26 & 27 Vict. c. 29.	An Act to amend and continue the Law relating to Corrupt Practices at Elections of Members of Parliament.
31 & 32 Vict. c. 125.	The Parliamentary Elections Act, 1868.
32 & 33 Vict. c. 21.	The Corrupt Practices Commission Expenses Act, 1869.
34 & 35 Vict. c. 61.	The Election Commissioners Expenses Act, 1871.
42 & 43 Vict. c. 75.	The Parliamentary Elections and Corrupt Practices Act, 1879.

INDEX.

ABERDEEN. *See* UNIVERSITY ELECTIONS.

ABSENCE

of candidate, when proposed or elected, 68

ADJOURNMENT

after nomination, when election contested, 70
in case of death of candidate, before poll taken, 71
in case of riot, 76
when preparations for taking poll not complete, 99

AFFIRMATION. *See* DECLARATION.

AGENCY,

bribery inquired into before, 136
if proved, liability of candidate, 136
definition of, 137
what specific facts will establish, 140, 141
when it ceases, 143

AGENT,

neither returning officer nor partner may act as, 75
for what purposes to be appointed, 72
appointment of fresh, in case of incapacity to act, 74
declaration of secrecy to be taken by, 74
candidate may act as, for certain purposes, 72
appointment of scheduled briber as, 75
may not vote, 76
for counting votes, service of notice upon, how effected, 76
to be present at counting of votes, 100
———verification of ballot paper account, 103
bills for election expenses to be sent in to, 116
liability of candidate for acts of, 136

AMENDMENT

of return, 112

APPOINTMENT

of staff by returning officer, in England, 35
——— in Scotland, 52
——— in Ireland, 59

APPOINTMENT—*continued.*

- of presiding officers, 36
- of poll clerks, 40
- of additional clerks, to count votes, 40
- of constables, to keep order, in England, 41
- _____ in Ireland, 60
- of deputy, by sheriff, 42
- of returning officer in English counties, if post vacant, 43
- of substitute, in Scotland, 52
- of commissioners to administer oaths, in Ireland, 60
- of assessor, in Ireland, 60
- of agents, by candidates, 72
- of fresh agents, by candidates, 74
- of scheduled briber as agent, 75

ARREST

- of any person in a polling station, for personation, 97
- _____ for misconduct, 41

ASSESSOR,

- appointment of, in Ireland, 60

ASSOCIATION,

- political, members of, when agents, 141.

ATTORNEY,

- when agent of candidate, 140 note (7).

BALLOT ACT,

- 35 & 36 Vict. c. 33, lxxxiii
- rules of, cii
- forms prescribed by, writ, cxvi
- _____ nomination paper, cxvii
- _____ notice of election, cxvii
- _____ ballot paper, cxix
- _____ direction of guidance of voters, cxx
- _____ statutory declaration of secrecy, cxx
- _____ declaration of inability to read, cxx
- acts repealed or amended by, for England, cxvii
- _____ for Scotland, cxxviii
- _____ for Ireland, cxxxii

BALLOT BOXES,

- by whom to be supplied, 25
- construction of, 29
- number of, 38, note (4)
- to be exhibited empty before poll commences, 36
- to be sealed up after close of poll, 38

BALLOT PAPERS,

- by whom to be supplied, 32
- form of, 29, cxix, cxli
- for tendered votes, 31

BRIBERY—*continued*

at common law, its effect upon seat of member, 133
 its effect upon electors, 135
 by statute, 135
 — who is a briber, 135
 criminal liability for, 136
 inquired into, before agency, 136
 by stranger, how far candidate affected by, 143
 of any person whatever, is a statutable offence, 144
 premium held out in, 144
 before and after vote given, 145
 definition of, after vote given, 145
 intention to violate law immaterial in, 147
 unconditional payments not, 152
 subscriptions not, 152
 charity not, 152
 lavish household expenditure not, 152
 payment for admission of freemen not, 155
 overpaying agent not, 152
 payment of rates, when, 154
 by offer to procure place in town council, 144, note (8)
 colourable payments, 155
 purchase of influence, when, 155
 procuring return, 156
 supplying money for past or future, 157
 penalties for, 157
 person bribed guilty of, 160
 before or during an election, 145
 after election, 161
 personal knowledge of, of candidate, 159

BUILDINGS

for polling-station, may now be hired, 27

CAMBRIDGE. *See* **UNIVERSITY ELECTIONS.****CANDIDATE,**

form of nomination of, 25
 consent of, necessary for taking poll at inn, 28
 contract by, as to polling stations, 34
 liability of, for expenses of election, in England, 34
 — in Scotland, 53
 — in Ireland, 58
 — for acts of agents, 136
 in Irish elections, effect of gift by, to sheriff, 56
 is entitled to be present at nomination, 65
 — in polling station, 36
 neither presence or consent of necessary, 68
 withdrawal of, 69
 death of, before poll taken, 71
 may undertake duties of agent, 72

CANDIDATE—*continued.*

- may attend counting of votes, 100
- disqualified, vote if given for, after notice of disqualification, 92
- claims on, to be sent to agents, 116
- if guilty of bribery, effect at common law, 131
- penalties on, by statute, for bribery, 159
 - _____ treating, 165
 - _____ intimidating, 172
 - _____ contravening secrecy of ballot,
- 74, note (2)
- personally guilty of bribery, 159

CANVASSER,

- vote given by paid, void, 86, 87
- agency of, 141

CASE

- of Mr. Ramsay, 4, note (2)
- Sir Sydney Waterlow, 5, note (1)
- O'Donovan Rossa, 4
- Sir Bryan O'Loughlen, 5, note (1)
- Mr. O'Connell, 6

CASTING VOTE,

- when returning officer may give, 104

CHAIRING,

- payment of expenses of, illegal, 152

CHANCELLOR,

- issue of writs by, 1

CHILTERN HUNDREDS,

- acceptance of stewardship of, 3

CHURCH,

- nomination may not be held in, in English boroughs, 44

CLAIMING A SEAT

- by striking off void votes, 86

CLERGY,

- liability of candidate for acts done by, 141
- legitimate influence of, 166

CLERK. *See* POLL CLERK.

- paid by candidate, vote given by, void, 94

CLERK OF THE CROWN,

- new writs issued from office of, 1
- to be certified to, after election, 10
- to give notice to War Office on issuing new writs, 18
- ballot papers to be forwarded to, in England and Ireland, 111
- to permit inspection of ballot papers, 108
- authenticity of document produced by, 108
- return forwarded to, 111
- duty of, as to return, 112
- must amend errors in return, 112

CLOSE

of poll, discussed, 80, 82

COALITION

of candidates, effect of, 141

COCKADE,

illegal to provide, 152

COMMISSIONER,

appointment of, in Ireland, to administer oaths, 60

COMMITTEE,

liability of candidate for, 141

CONSTABLES,

appointed by returning officer, 35, 41

duties of, 41

no voter compellable to serve as, 42

should not be appointed by candidates, 41, note (5)

special regulations as to, in Ireland, 60

pay of, in Ireland, 60

in Irish borough elections, forfeits pay for neglect, 62

not to interfere in elections, 171

CONTEST. *See* **ELECTION.****CONTRACTOR,**

seat vacated by being, with Government, 4, note (2)

CONTRAVENTION,

wilful, of statutory requirement, effect on election, 176

CONVEYANCE

of voters to poll, when legal, 151

CONVICT

may not vote, 84, note (6)

CORK,

division of, into polling districts, 61

CORRUPTLY,

meaning of word in statute, 149, 150, note (2)

governs the whole sentence in Corrupt Practices Act, s. 4, 164

CORRUPT PRACTICE,

vote given under effect of, void, 94

discussed, 128-174

COUNTERFOIL,

of ballot paper, attached to ballot paper, 29

_____, what is to be marked on it, 37

_____, to be returned to returning officer, 38

COUNTIES,

- returning officer in, 11
- arrangement of polling districts and places, in England, 26-28
- _____ Scotland, 50, 51
- _____ Ireland, 57
- polling stations in, 26
- preparations for elections in, 19-33
- _____ as to Scotland, 49
- _____ Ireland, 56

COUNTING VOTES,

- formalities as to, 99

CROMARTY,

- place of election for, 49
- time of election for, 54

CUSTOM,

- threat of withdrawing, 169

DAY OF ELECTION. *See* ELECTION.

DEATH

- of member, issue of new writ upon, 2
- _____ if during recess, 7
- _____ of speaker, writs how then issued,
- _____ of returning officer, in counties, 14
- _____ boroughs, 15
- _____ Scotland, 15
- _____ Ireland, 15
- of candidate, before poll taken, 71

DECLARATION,

- statutory, of secrecy, by whom to be taken, 74
- _____ by voter, if required in England and Ireland, 89
- _____ Scotland, 90

DEPUTY RETURNING OFFICER,

- in English counties, 42
- _____ boroughs, 48
- in Scotland, 52, 53, 56
- in Ireland, 59, 63
- may not act as agent, 75
- may adjourn election in case of riot, 76
- at University elections, 121, 124

DINGWALL,

- election for Ross and Cromarty held at, 49
- day, hour, and place of election for, 54

DIRECTIONS AS TO VOTING,

- by whom to be supplied, 25
- form of, 31

DISFRANCHISEMENT,

on account of being convicted of bribery, 157
treating, 165
undue influence, 172

DISQUALIFICATION,

at time of election, vacates seat, 3
instances of, 3, 4
notice of, to be given before poll, 92
if presumed, 94. note (3).
to vote, on account of bribery, 157
treating, 165
undue influence, 172

DISTRICT BOROUGHES,

what, in England, cxii
Scotland, cxiii, 54

DOCUMENTS,

what, to be forwarded to clerk of the crown, 106
rules as to transmission of, 107

DORNOCK,

day, hour, and place of election for, 54

DOUBLE RETURN,

when to be made, 115

DRUNKENNESS,

vote of person in state of, how to be dealt with, 95

DUBLIN,

division of, into polling districts, 61

DUBLIN UNIVERSITY,

returning officer at, 121
statutory enactments as to election for, 127

EDINBURGH UNIVERSITY,

returning officer at, 121

EJECTION,

of any person from polling station, 41

ELECTION,

issue of writ at, 1
of same person for more than one place, 5
of same member after expulsion, 6
notice of, as to counties, 20
boroughs, 43
time of, as to counties, 22
boroughs, 44
as to Orkney and Shetland, 49
if held on wrong day, effect on election, 22 note, (3).

ELECTION—continued.

- place of, as to counties generally, 23
- _____ boroughs, 44
- _____ for Scotch counties, 49
- _____ English and Welsh counties, 23
- what must be provided for, if not contested, 24
- _____ if contested, 25
- proceedings at, 64-119
- if not contested, terminates after nomination, 70
- adjournment of, if contested, 70
- riots at, 76
- notice of result of, how given, 104
- at Universities, proceedings at, 120-127
- avoided, by bribery at common law, 133
- _____ general corruption, 133
- _____ treating, 162
- _____ irregularities in the conduct of it, 172-175
- by undue influence, 170
- contested, meaning of, 33

ELGIN,

- place of election for, 49

ENGLAND,

- writs for, where issued, 1
- returning officer in counties in, 11
- _____ boroughs in, 11-13
- _____ must give his services gratuitously, 20
- deputy returning officer in counties in, 14
- _____ boroughs in, 15
- general officers commanding in, to receive notice of election, 18
- soldiers stationed in Bank of, may go out on day of election, 18
- place of election for counties in, 23
- polling district and places for counties in, how arranged, 28
- _____ for boroughs in, 44
- number of polling stations in boroughs in, 46
- vacancy in office of returning officer in counties in, 43
- _____ boroughs in, 48
- elections at Universities in, 120

EQUALITY OF VOTES,

- what to be done in case of, 104, 115

ESCHEATORSHIP,

- of Munster, acceptance of office of, 3

EVIDENCE

- of personal knowledge of bribery, what constitutes, 159, note (4)

EXPENSES,

- limit of, for polling stations, in counties generally, 28
- _____ boroughs in England, 46
- _____ Scotland, 52
- _____ Ireland, 58

EXPENSES—*continued.*

- limit of, for ballot papers, 31
 - stamping instruments, 31
- liability of returning officer for, in England, 33
 - Scotland, 50
 - Ireland, 58
- candidate for, in England, 34
 - Scotland, 50
 - Ireland, 58
- proposer of candidate for, 69
- security to be given for, if required, 69
- agents for election, appointment of, 72
- bills for, to be sent in and published, 116
- election, meaning of expression, 117, note (2)
- personal, meaning of, 117, note (3)
- non-compliance with enactment as to, effect of, 118, note (1)
- at Scotch University elections, 128
- payment of travelling, 151
 - illegal, 151

EXPULSION

- from the house, seat void after, 6

FALSE RETURN,

- effect of making, 112

FAVOURS,

- payment for, illegal, 151

FEE,

- not permitted for forwarding writ, 18
- what payable by candidate in Ireland, 56
- not permitted for making return, 116

FELON,

- if elected, seat vacated, 4

FELONY,

- personation is, 96

FLAGS,

- payment for, illegal, 152

FRAUDULENT CONTRIVANCE,

- what is, within meaning of Corrupt Practices Act, s. 5, 168

FREEHOLDER,

- presiding officer in Ireland need not be, 59

FREEMEN,

- of city of London, where they vote, 46
- payment for admission of, when bribery, 155

- GENERAL CORRUPTION,
 effect of, if by bribery, 133
 _____ treating, 162
 _____ undue influence, 170
- GLASGOW UNIVERSITY,
 returning officer at, 121
- GREAT SEAL,
 person acting as, 16
 messenger of, forwards writs, 17
 _____ not now remunerated, 18
- HANAPER,
 Clerk of the Crown and, issues writs for Ireland, 1
- HAWICK BOROUGHES,
 returning officer for, 14
- HIRE
 of conveyances for voters, 151
- HOUSE OF COMMONS,
 if sitting, orders issue of writ, 1
 resolution of, as to incapacity of member to be elected, 4
 may expel member, 6
 may order inspection of ballot papers, 109
 may commit returning officers, for making improper return, 114
 effect of resolutions of, 171
- IDENTITY,
 question as to, in England and Ireland, 87
 declaration as to, in England and Ireland, 89
 _____ Scotland, 90
- ILLEGAL PAYMENTS,
 for refreshments to voters on poll and nomination days, 153,
 162
 — travelling expenses, 151
 — cockades, bands, &c., 152
- INCAPACITY
 of voter to vote, through blindness or other cause, 37
- INDORSEMENT
 upon writ, as to when it was received, 19
- INELIGIBILITY,
 notice of, of candidate, 92
- INFLUENCE. *See* UNDUE INFLUENCE.
 purchase of, where bribery, 155
- INN,
 taking poll at, by consent of candidate, 28

INSANE

voter, if he offers to vote, 95

INSPECTION

of ballot papers and other documents, 108, 109

INTERPRETER

in Irish elections, no longer allowed, 59

INTIMIDATION. See UNDUE INFLUENCE.**INVALID**

ballot papers, what makes, 86

IRELAND,

writs for, where issued, 1

returning officer in, 14

_____ must act gratuitously, 20

deputy returning officer in, 59, 63

effect of gift by candidate to returning officer, 56

fees payable to returning officer in, 56

preparations for elections in counties in, 56-61

_____ in boroughs in, 61-63

polling districts and places, for counties in, 57

_____ for boroughs in, 61

expenses of polling stations for counties in, 58

personation at elections in, 88

incapacity or death during poll of returning officer in counties
in, 59

_____ in boroughs
in, 63

appointment of commissioner to administer oaths, 60

riots at election in, 78

commencement of poll in, 80

what questions may be put to voters in, 88

ballot papers to be sent to Clerk of Hanaper in, 106

enactment repealed as to transmitting ballot papers, 108, note (1)

peculiarity as to form of return in, 111

returning officer in, liable for breach of duty, 113, note (6)

IRREGULARITY

in conduct of election, effect on election, 172-177

ISSUE

of writ, at election, 1

_____ when necessary, 1

JEW,

how he is to vote on Saturday, 37

JUDGE

may order inspection of ballot papers, 109

report by, effect of on person reported, 158, note (6)

JUSTICE OF THE PEACE

to take declaration of secrecy by agent, 74
 how to deal with cases of personation, 96

KINROSS,

place of election for, 49

KIRKWALL,

district boroughs of, notice of election for, 54
 _____ on what day poll to be taken for, 54
 _____ adjournment for poll for, 79

KNOWLEDGE

of bribery, personal, of candidate, 159

LANDLORD

may exercise legitimate influence over tenants, 166, note (7)

LEGAL EXPENSES,

payment of, whether bribery, 155

LIMERICK,

division of, into polling districts, 61

LISTS

of voters marked by presiding officer, 37
 of persons disqualified for corruption, 158

LOAN,

when amounting to a bribe, 144

LONDON,

writ how forwarded to sheriffs of, 16
 freemen of city of, where they vote, 46

LONDON UNIVERSITY,

returning officer at, 121

LOSS OF TIME,

payment for, when bribery, 153

LUNACY,

vote of person suffering from, how to be dealt with, 95

MARK. *See* OFFICIAL MARK.

what kind of, may be made on ballot paper, 84, 102

MEMBER OF PARLIAMENT,

issue of writ on death of, 1
 _____ on accession to peerage of, 1
 _____ on his accepting office of profit, 1, 2
 _____ on bankruptcy of, 5
 _____ on return of for more than one constituency, 5
 _____ on expulsion of, 6

MENTAL DISABILITY.

vote of person under, how to be dealt with, 95

MESSENGER

of great seal, forwards writs, 16
remuneration of for forwarding writs, not now allowed, 18
vote given by, void, 94
liability of candidate for acts done by, 140

MINISTER

of the crown, not to interfere at elections, 171
of religion, spiritual influence of, 166
——— coercion of, as to voting, 166, note (8)

MISDEMEANOR,

to accept fee for forwarding writs, 18
to forge or fraudulently deface nomination paper, 65, note (7)
——— ballot paper, 86, note (2)
to put into the ballot box a paper not the ballot paper, 86, note (2)
to interfere with the ballot box or ballot papers, 100, note (3)
to fraudulently destroy official mark, 37, note (3)
bribery is, on the part of the briber, 157
——— the person bribed, 160
undue influence is, 167

MISDIRECTION

of writ, how remedied, 16

MISTAKE,

writ, if issued by, supersedeas to, 8

NAIRN,

place of election for, 49

NOLUMUS CLAUSE,

in writ, now omitted, 10, note (1)

NOMINATION,

place of, in county, in England, 23
——— in Scotland, 49
——— in English boroughs, 44
——— in Scotch boroughs, 54
proceedings at, 64
in Scotland, commences by reading writ, 64, note (2)
presence of candidate at, and consent of, 68
withdrawal of candidate at, 69
fresh, if candidate die before poll taken, 71
of same person, more than once, 66, note (8)

NOMINATION PAPER,

by whom to be supplied, 25
form of, 25
by whom to be signed, 25

NOMINATION PAPER—*continued.*

how dealt with, on nomination day, 65
 objections to, 66-68

NOTICE,

to war office, 18
 public notices, how given, 22
 effect of mistake in form of, 21, note (4)
 of county election, when given, 20, 43
 _____ form of, 21
 _____ transmission of, 23
 signature of, by returning officer, 24
 of situation of polling stations, 32
 of borough election, 43
 what, to be given, if election contested, 70
 publication of, by telegraph, 71
 of appointment of agents, 73
 service of, on agents, 76
 of disqualification of candidate, 92
 of candidates elected, how given, 104
 of university election, 121

OATH,

returning officer not now required to take any, 39
 to be taken by voters, if required, 89, 90

OBJECTIONS

to nomination paper, 66-68
 to ballot papers, 101

OFFICE

of profit, acceptance of, vacation of seat by, 2
 _____ during recess, writ how issued, 6
 _____ sinecure, 3
 of town councillor, promise to obtain, bribery, 144, note (8)

OFFICIAL MARK

made on ballot paper to be kept secret, 31
 must be placed on each ballot paper, 36
 must be shown to presiding officer, 37
 rejection of ballot papers without, 101
 fraudulent destruction of, misdemeanour, 37, note (3)

ORKNEY AND SHETLAND,

time of election for, 49
 notice of election for, how given, 50
 on what day poll to take place in, 79
 proceedings at poll in, 79
 how long poll to be kept open in, 80

OXFORD UNIVERSITY,

returning officer at, 121

voting, may be used at University elections, 125

of returning officer, in England and Ireland, 20
 _____ in Scotland, 52

colourable, of wages, 155

place of election for, 49

accession to, during recess, writ how issued, 7

interference of, in elections, 171

may be used to mark ballot paper with, 85, 103, note (5)

for undue influence, 172

to mark ballot paper with, to be provided, 32, 85

knowledge of bribery, of candidate, 159

penalty if charge of, not proved, 98

- PETTY BAG OFFICE,
writs issued from, for English and Scotch elections, 1
- PLACE OF ELECTION. *See* ELECTION.
- POCKET SHERIFF
in England, 14
- POLICE. *See* CONSTABLES.
- POLITICAL ASSOCIATION,
liability of candidate for, 141
- POLL,
when it may be adjourned, 76-99
on what day it is held generally, 78
_____ for Orkney, 79
_____ for Kirkwall, 79
at what hour it opens and closes in English counties, 79
_____ in English boroughs, 79
_____ in Metropolitan boroughs, 79
_____ in Scotland, 79
_____ in Orkney and Shetland, 80
_____ in Ireland, 80
effect of opening or closing, at improper time, 80
declaration of secrecy to be made before opening, 39, 82
infringement of secrecy as to proceedings at, 82
proceedings upon opening of, 36, 84
method of voting at, 36, 85
effect of receiving void votes at, 86
what votes may be rejected at, 86
what votes must be received at, 86
what questions may be asked at, in England, 87, 88
_____ in Scotland, 89
_____ in Ireland, 87
right of personator to vote at, in England and Ireland, 88
_____ in Scotland, 90
tender of vote at, 90, 91 note (2)
voting at, for disqualified candidate, 92-94
commencement and duration of, at Universities, 122-124
- POLL BOOKS,
meaning of expression under Ballot Act, 104, note (2)
custody of, in University elections, 126
- POLL CLERK,
appointed by returning officer, 40
statutory declaration of secrecy taken by, 40
duty of, 40
number and pay of, 40
additional, may be appointed to count votes, 41
liability of, for neglect of duty, 40, note (5)
in Irish borough elections, forfeits pay for neglect, 62
at University elections, 124

POLLING DISTRICTS,

- by whom arranged, in English counties, 28
- _____ in English boroughs, 44
- _____ in Scotch counties, 50
- _____ in Scotch boroughs, 54
- _____ in Irish counties, 57
- _____ in Irish boroughs, 61

POLLING PLACES

- at University elections, 124

POLLING STATIONS

- number of not specified in Ballot Act, 26
- how to be distributed, 26
- if arranged so as to violate secrecy, 26, note (2)
- booths need not be erected for, 27
- room may be hired and used for, 27
- inns not to be used as, except by candidates' consent, 28, 51
- situation of to be advertised, 32
- names of parishes, &c., to be affixed on, in counties, 32
- _____ in boroughs, 45
- what must be provided at, for voting, 32
- presiding officer to preside at, 36
- who may be admitted into, 36
- misconduct in, how punished, 41, 42
- erection of additional, in Scotland, 51, 55
- limit of expense of, in counties in England, 27, 28
- _____ in English boroughs, 46
- _____ in Scotch counties, 52
- _____ in Scotch boroughs, 54
- _____ in Irish counties, 58
- _____ in Irish boroughs, 62
- expression "polling booth" now equivalent to, 58, note (4)
- arrest in, or ejection from, of any person, 41

POST OFFICE,

- writs delivered at General, 16, 17
- lists to be hung up at General, 18

POST-MASTER,

- duties of, as to writs, 17
- _____ as to forwarding ballot papers, 107
- _____ as to forwarding return, 111

PRELIMINARIES TO WRIT,

- on a general election, 1
- on a vacancy, 6

PRESIDING OFFICER,

- appointed by returning officer, 35
- qualification of, 36
- duty of, 36
- payment of, 39

PRESIDING OFFICER—*continued.*

statutory declaration of secrecy taken by, 39
 returning officer may act as, 35, note (6)
 liability of, if he neglects to mark ballot papers, 37, note (3)
 adjournment of poll by, 76
 in Ireland need not be a freeholder, 59
 what kind of votes he may reject, 86
 ————— he must receive, 86

PROCLAMATION

includes notice given under Ballot Act, 10, note (2)
 of the writ, on nomination day in Scotland, 64, note (2)

PROCURING RETURN,

when bribery, 156

PROPOSER,

liability of, for election expenses, 69, note (1)
 in Scotland, may order additional polling stations, 55

PUBLIC HOUSE,

taking poll at, 28, 51

QUESTIONS,

what may be asked of voters in England and Ireland, 88
 ————— in Scotland, 89
 meaning of, 88
 how to be asked, 88

RATES,

payment of, effect of, 154

RECESS,

issue of writ during, 6

RECOUNTING

votes, petition for, 100

REFRESHMENTS,

bonâ fide and unconditional supply of, 153
 penalty for supplying, on day of poll, 153, 162

REGISTER,

copies of, to be supplied at polling stations, 32
 conclusive, of right to vote, 87
 inspection of marked, 110

REJECTED

ballot papers, what is to be done with, 103

REJECTION

of ballot papers, on what grounds, 86

RETURN,

double, when to be made, 115
 how made, 111
 how forwarded, 111

RETURN—*continued.*

when considered as made, 112
 amendment of, 112
 how dealt with by Clerk of Crown, 112
 false, effect of making, 112
 effect of delay in making or refusal to make, 113
 by whom made, if returning officer is incapacitated, 114
 must be unconditional, 114
 special, when to be made, 114
 error in, liability of returning officer for, 115
 no fees allowed for making, 116
 at University elections, 126

RETURNING OFFICER,

writ addressed to, 10
 definition of, 11, note (2)
 who is, in counties, 11
 — in boroughs generally, 11–13
 — in Scotland, 14
 — in Ireland, 14
 when post of, vacant, to whom writ directed, 14
 services of, gratuitous in England and Ireland, 20
 pay of, in Scotland, 52
 what he must provide for elections, 24, 31
 must give notice of election, 20
 — of situation of polling stations, 32
 must make preparations at his own expense, 33
 what amount of preparation for election he must make, 35
 staff of, 35
 ballot boxes and papers to be delivered to, at close of poll, 38
 in boroughs, must conduct election in person, 39
 fees payable to, in Ireland, 56
 in Irish borough elections, forfeits pay for neglect, 62
 oath to be taken by, now abolished, 39
 duties of, on nomination day, 65
 may not act as agent, 75
 must adjourn election in case of riot, 76
 vacancy in office of, after writ issued in counties, 43
 — in boroughs, 48
 death or incapacity of, in Scotland, 53
 — in Ireland, 59
 declaration of secrecy to be taken by, 82
 — may be made before, by agent, 74
 to count votes, 99
 to give notice of candidates elected, 104
 when he may vote, if votes are equal, 104
 how to dispose of ballot papers after election, 104
 to deliver return to postmaster, 111
 in England, liable to penalty for making false return, 112
 wilful delay or refusal to return, 113

clxxix

writes for, where issued, 1
returning officer in, 14
_____ pay of, 52
deputy returning officer in, 15
general officers commanding in, notice of election to, 18
preparations for election in counties in, 49-53
_____ boroughs in, 53-56
polling districts and places, how arranged for counties in, 50
_____ boroughs in, 54

SCOTLAND—*continued.*

place of election for certain counties in, 49
expenses for polling stations in, 51
pay of poll clerks in, 52
personation at elections in, 90, 97, note (2)
incapacity or death of returning officer in, 53
election in, commences by reading the writ, 64, note (2)
riots at election in, 77
commencement of poll in, 79
close of poll in, at request of candidates, 82
what questions may be put to voters in, 89
ballot papers how to be disposed of in, 111
elections at universities in, 121–126
election expenses at university elections in, 126

SEALING WAX,

to be supplied at polling station, 32
when requisite, 38, 105, 106, note (7)

SEAT. *See* VACANCY.**SECONDER.** *See* PROPOSER.**SECRECY,**

if violated by arrangement of polling station, election not void,
26
declaration of, to be taken by agent, 74
_____ by every officer, 82
violation of, by candidate, 74, note (2)
_____ by any person in polling station, 82

SECRETARY OF STATE FOR WAR,

notice to, as to elections, 18

SECURITY

for election expenses to be given if required, 69

SELKIRK,

returning officer for county of, 14
place of election for, 49

SHERIFF,

returning officer in counties, 11
appointment of deputy by, 42
deputy for, in England, 14, 15, 42
_____ in Scotland, 15
_____ in Ireland, 15.
pocket, 14
services of, gratuitous in England and Ireland, 20
must make preparations at his own expense, 33
to make what preparations for county elections, 35
need not preside in person, 42
provisions in case of vacancy in office of, in England, 43, 48
_____, in Scotland, 53
_____, in Ireland, 59

- SHERIFF**—*continued.*
 fees payable to, in Irish elections, 62
 in Irish borough elections, forfeits pay for neglect, 63
- SHERIFF CLERK,**
 to retain ballot papers in Scotland, 111
- SHETLAND.** See **ORKNEY.**
- SIGNATURE**
 of notice of election, whether to be printed or written, 24
- SOLDIERS,**
 not to go out of barracks during an election, 18
 not to interfere in elections, 18
- SOLICITOR**
 of candidate, how far necessarily agent for, 140, note (7)
- SPEAKER,**
 issue of writ under warrant of, 1
 letter to, from member as to disqualification, 4, note (2)
 if dead, or absent, writs how issued, 9
- SPIRITUAL INTIMIDATION,** 166, note (8)
- STAMPING INSTRUMENTS,**
 form of, 31
 to be supplied by returning officer, 32
 expense of, not to exceed 10s., 31
- STATIONERY,**
 expense of, at polling station not to exceed 10s., 33
- SUBSTITUTE,**
 sheriff, in Scotland, 52
- SUPERSEDEAS,**
 to writ issued by mistake, 8
- TAIN,**
 day, hour, and place of election for, 54
- TENDER**
 of vote, right of now taken away, 87, note (2), 91, note (2)
- TENDERED VOTES,**
 particular ballot papers for, 91
 when allowable, 91, note (2)
 list of, to be made, 38, 106
- THIRSK**
 returning officer for, 13
- THREAT,**
 if deliberate, contravenes Corrupt Practices Act, 169

TOWN CLERK.

in Scotch burghs, arranges polling places, 54

TOWN COUNCIL,

offer to procure place in, bribery, 144, note (8)

TRAVELLING

expenses, payment of, 151

TREATING,

how far an offence at common law, 162

by statute, 162

liability of candidates as to acts of agents, 163

premium in, 163

corrupt intention must be made out in, 163

illegal on day of poll, 153

penalty as to, 165

effect on vote, 165

UNDUE INFLUENCE,

vote given under effect of, void, 167, 172

not indictable at common law, 166

effect of, on election, 166

definition of, 166

spiritual, of clergy, 166, note (8)

all influence is not, 166

by riots, 167

by statute, 167

by fraud, 168

by infliction of substantial loss, 169

by threat, if deliberate, 169

by interference of soldiers, 171

_____ government officers, 171

_____ police, 171

_____ ministers or peers, 171

penalties for, 172

UNIVERSITY ELECTIONS,

proceedings at, 120-127

writs for, to whom directed, 120

deputy returning officer at, 121

notice of election, how given for English, 121

_____ Scotch, 122

time and place of election for Oxford and Cambridge, 122

_____ London, 122

_____ Scotch, 123

mode of election at, 125

commencement and duration of poll at, 123

polling places at, 124

appointment of pro-Vice Chancellors, 124

_____ of poll-clerks, 124

how votes to be given at, 125

declaration of persons elected at, when made, 125
 return at, to whom made, 126
 double return at, statutory enactments as to, 126
 custody of poll books after, 126
 expenses of election at Scotch, 126
 for Dublin University, 127

in representation, how created, 2-6
in office of returning officer in England, 48, 48
_____, Scotland, 53
_____, Ireland, 59

what is, in bribery, 151, note (3)

liability of candidate for, 139

notice to be given of polling station where to vote, 32
 directions for guidance of, to be posted up, 31
 to apply to presiding officer for ballot paper, 36
 how to vote if incapacitated by blindness or otherwise, 37
 _____ if a Jew (on a Saturday), 37
 _____ unable to read, 37
 must have name on register, 87
 how to give their votes, 36, 84, 102
 what questions may be asked if, in England, 87
 _____ Scotland, 87, 88
 _____ Ireland, 87
 votes of, void if bribed, 94
 _____ treated, 94, 165
 _____ intimidated, 94, 167

appointment of agent for counting, 74
 candidates may attend counting of, 100
 how to be given, 36, 84, 102
 if void, when they may be rejected, 86
 ——— when they must be received, 86
 different kinds of void, 86
 counting of, 99
 recounting of, 100
 if equal, what to be done, 104
 how given, at University elections, 125

may be used at University elections, 125
not liable to stamp duty, 125, note (3)

- WAGER,
when bribery, 129
- WAGES,
colourable payment of, when bribery, 155
- WAR OFFICE,
notice to, on issue of new writ, 18
- WATERFORD,
division of, into polling districts, 61
- WICK,
day, hour, and place of election for, 54
- WITHDRAWAL
of candidate, must be made in writing at nomination, 69
of custom, when undue influence, 169
- WOMAN,
vote if given for, lost, 94
may not vote, 84, note (6)
- WRIT,
issue of, at general election, 1
— on a vacancy, 1
new, how and when applied for when parliament sitting, 2
new, how obtained during recess, 6
supersedeas to, if writ issued by mistake, 8
how issued, if speaker dead or absent, 9
form of, 10
“nolumus” clause in old form of, 10, note (1)
how directed, 10
misdirection of, 16
how forwarded, 16-18
indorsement on, by returning officer, 19, cxvi
execution of, gratuitous in England and Ireland, 20
not gratuitously executed, in Scotland, 52
election to be commenced by reading, in Scotland, 64, note (2)
to whom sent, in Irish borough elections, 61
— in University elections, 120

THE END.





